

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**July 19, 2001**

The regular meeting of the Wichita-Sedgwick County Metropolitan Planning Commission was held Thursday, July 19, 2001 at 12:00 p.m., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Jerry Michaelis, Acting Chair; Don Anderson; James Barfield (late arrival); Dorman Blake; Kerry Coulter; Frank Garofalo; Bud Hentzen; Bill Johnson (late arrival); Ron Marnell; John W. McKay, Jr.; and Ray Warren (late arrival). Elizabeth Bishop, Harold Warner and David Wells were not present. Staff members present were Marvin Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner, Scott Knebel, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Associate Planner, and Karen Wolf, Recording Secretary.

#### **1. County Capital Improvement Plan presentation/finding of consistency with Comprehensive Plan.**

**PETE GIROUX** "I am a Senior Management Analyst for the County and I am accompanied today by the distinguished Deputy Director for the Public Works for the County."

**MCKAY** "Are you talking about Weber? Are you new on the job?"

**GIROUX** "I am new on the job, and sort of the ringmaster between the Public Works Department and the Project Services people. It is a new position and I have been on it about 6 months. We are here today to brief you on the Capital Improvement Program (CIP) that we have included in the recommended budget hearings to be held on the 25<sup>th</sup> of this month and the 8<sup>th</sup> of August. We anticipate the approval of the budget on the 8<sup>th</sup> of August.

(Indicating) Here is our Oversight Committee—you can see Mr. Krout's name on there. He tries to keep everything well integrated. I sit here in the middle between Jim and Stephanie Knebel, who runs our project services.

Our objectives this year were to focus on continuing to maintain sound plans; identify the future needs, and try to improve a systematic approach to our maintenance and repair—most of all a long-term fiscal prudence.

In the past, we have had some limitations on some of the project execution. Typically most of the facility projects have been cash funded, and with a limited amount of dollars, it doesn't allow everything that ought to be done. There has been some discussion in the past about using bonds for appropriate, and this year we have implemented that in the proposal to the County Commission, and we intend to focus where appropriate on projects that have long-term life that is consistent with the bond.

This year, we have a total of \$218 million proposed and you can see how it is divided with a preponderance in infrastructure. We have some major facility requirements and I will highlight those here in a little bit. We started this year into a drainage program for the unincorporated areas. The County will continue that next year.

(Indicating) Here is where we get money. Right now there is a limitation on our bonding. If we execute all of the planned projects, we might have to adjust that 5% of taxable assessed valuation limit. We will see what happens. In 2002, we are going to invest about \$25 million in the juvenile justice complex. We are still discussing locations for the 911 dispatch emergency operation center combination, but for those of you who are familiar with the current location, you know that there are some serious limitations there. Depending on the discussions that you saw highlighted in the paper yesterday on the downtown arena, we have included the plan and design component of a re-model for the arena at the Kansas Coliseum.

The court house projects are the ones I touched on earlier with the use of the bond, and we are going to go in and do a variety of different things. The District Court has been clambering for more space. We are going to work in the former jail area on the 5<sup>th</sup> floor. We are going to be doing a variety of projects to upgrade the infrastructure in the facility.

We are also going to work on the front end of the building. As you are probably aware, it is quite congested now with all of the security equipment. We want to extend the front of the building a little bit and refresh the jury room and some of the configuration in the facility and do that in a prudent manner. We are going to capture some unused space on the 12<sup>th</sup> floor and integrate all of the computer controls in the jail into a system that has the same general system architecture.

Across the street in Monger, we are going to be moving EMS out to the Stillwell area. We are going to be doing some remodeling when they clear out and consolidate some of the operations there. The corrections area up the street will be included in the bond to do some required work there. It is a heavily used facility and it needs some attention.

For those of you that go to the Murdock tag office when it is raining, you will know what I am talking about when we talk about the parking lot. We are going to get some engineers to investigate that and propose some fixes. (Indicating) this is a list of the remainder of our 2002 projects, we are going to add a couple more courts. We have renovated a couple of courts in the Sedgwick County park and we are going to do two more this year and then follow that in the next year. The ones we have just completed are pretty impressive.

Again, there is the Kansas Coliseum, and again, it is dependent on where the discussions on the downtown arena go. I will now turn it over to Jim and he can have at it."

Barfield arrived at 12:15 p.m.

**JIM WEBER** "Briefly—Pete has asked me to go through the Public Works infrastructure projects—one of the things I feel that I need to tell you is that if you are going to compare the C.I.P. that is being proposed to one from last year or two years back, you are going to see some differences. What has happened is that because of the short falls in sales tax, we have had what I would call a major reconciliation between the amount of cash that is available and the projects that we had previously listed in the C.I.P. So what we have essentially had to do is to take our C.I.P. and stretch it, so when we add a year to the new C.I.P.—the last year—essentially every project in there has come out of a prior project as we try to get all of those. I think we have it all balanced up now and we are comfortable with the sales tax estimates and things are rolling, but you will find some major projects that did move.

One of the things that Pete had mentioned was the drainage, and for those of you who don't know, the County did create a Stormwater Management Department in March of this year. As we went out of the sewer business we got into the drainage business. They have several projects down in the southern part of the County that they are working on this year—2002 will be the second year of the program. They are going to cash fund some projects. The significant ones that are coming on in 2002 would be the Cowskin Diversion channel and this would be south of Haysville, to try to start bypassing some of the major flows around the existing development that is down in and around the Cowskin. This would be some design and construction going on. And then, we identified a couple of projects in the Oaklawn area in 2002. The significant one that we will be doing will be to reconstruct Idlewild. Idlewild is the far southern street in Oaklawn and it has significant drainage problems, so we think this will be a good project for them down there.

As we look on out, the southern Sedgwick County drainage study has identified a number of major projects. Some of these are shown out in the future and are going to be driven by development that might occur down in that area when we talk about detention bases and pump stations and those things. There are some things along Clifton and down along Hydraulic that we are working to implement in a shorter time frame.

In 2002—of course every year we do some latex modified slurry seal, which is a seal coat on existing roads for probably the last 15 years the County Engineer has had a good program of building roads and coming back in 5 years with a slurry seal, and then coming back in another 5 years with a BM1 overlay, which is the second thing you see there, trying to extend the life of the infrastructure once we get it down. So every year as you go out you will see those two projects in there. They are basically \$1 million per year. They are pretty significant.

We are working on Rock Road down by Mulvane. That is a project that had previously been shown in the 2001 C.I.P. This is one of them that we have had to adjust to get the cash all balanced up. Another big one that we have going on in 2002 is the Haysville grade separation, a railroad project down there, which is all related to the C.O.R.E. railroad thing here in Wichita.

In 2003, again the BM1 overlay—the latex modified slurry seal is in there but it is probably a little bit smaller and didn't show up on our highlight slide. We are working to improve the corridor along 63<sup>rd</sup> Street South from Hydraulic, working our way back east. We have quite a bit of activity in there south of McConnell, south of Boeing, north of Derby and K-15 coming together. This would be the piece picking it up from Hydraulic to K15. It appears that we are going to recommend contributing \$10 million for the Kellogg/Tyler/Maize Road interchanges.

Again, in 2004, we have the slurry seal and the BM1 overlay. We have been working on Central for a while. We have been improving all of the main corridors out there on the east side of town. This would be the last piece of Central from 143<sup>rd</sup> to the County line running you right into Andover, and it connects up with the K-96. On 125<sup>th</sup> Street North, right up there on the County line, there is a bridge involved in this recondition job on Meridian—from Meridian to Broadway.

Then 71<sup>st</sup> Street South out to the Kingman County line. This would be one of the few major corridors out there, and I say major—though people will tell you that there isn't much traffic, and Marvin will tell you that it probably doesn't justify it based on traffic, but this is like a major collector out there and it is an important corridor, so we do have KDOT funding lined up for that project.

In 2005, again, we are on the east side of town with 13<sup>th</sup> Street. We will have Central done and we are going to move up to 13<sup>th</sup> Street. This goes from K-96 to the Butler County line. The east mile of that is currently a sand road, it is not paved. You may think of it as being next to Savannah Castle Rock Ranch.

Then in 2006, again, the maintenance projects. We are going to be doing some work on West Street. We have had to slide this one out because of the funding also, but we are going to get from the city limits down at 47<sup>th</sup> Street South, there is a pretty good sized industrial commercial corridor down there and some residential development occurring at the far south end of that. It looks like Pete needs to talk some more."

**GIROUX** "We think we have captured most of our facility requirements with the Court House bond. I won't belabor the discussion on the downtown arena. We still, as Jim indicated, have limitations, both policy and fiscal limitations on the amount of available sales tax, and how we pay for contributions like that \$10 million contribution to the Kellogg/Tyler/Maize is a subject of internal discussions and of course, circumstances of how the budget continues to proceed. We are going to pursue that in a right way if we choose to let sales tax pay for some of that bond, that of course,

reduces the amount of work that Public Works can do. They aren't happy about that. In any case, we will make prudent decisions. It is still going to be a subject of long discussion.

We have been able to put the recommended budget on the Internet—it was on last year. It is on Sedgwick County.org and is highlighted on the first page. I sent you a worksheet that I built over the last couple of weeks to show the project phases, and I inadvertently made an error in there. The fact that the \$10 million contribution to the Tyler/Maize interchange would be in 2003, and I inadvertently put it out there in the future on the worksheet.

We thought that would be a lot more user-friendly if you could look at it in that manner as opposed to looking at the funding source which doesn't have a lot of value to you. We are happy to accept questions at any time, but probably the best way to do that would be to shoot them to Mr. Krout and he will send them on to us and he can see the answers when they come back through. We will publish a separate CIP booklet that matches up with the approved budget. We will include a map this year that shows all of the various projects around the county. They will be available to you through Mr. Krout also. Again, we anticipate the county budget approval on the 8<sup>th</sup> of August and I would be glad to entertain any questions."

**GAROFALO** "I have a few. In the pie chart, on Page 282, on the infrastructure, under 'others', is that bridges? It says 'infrastructure roads' and then 'infrastructure other'. I was just wondering what that included."

**GIROUX** "I think it included drainage. I was trying to highlight the factor that there was a substantial investment, first in the Coliseum. In the 'infrastructure others' would include the drainage, intersections, and bridges. We were just trying to highlight the major factors."

**GAROFALO** "Okay. I didn't see the bridge on North Broadway that is a problem. Jim may want to answer that."

**WEBER** "That has not been included in the CIP. We have submitted that to KDOT and our intent would be to bring that into the plan in the next cycle. You are talking about the one up by KFDI aren't you?"

**GAROFALO** "Yes. And the only other question I think I had was that I didn't notice, or maybe I missed it, but the Hydraulic project, you know, where the City is going to go from MacArthur to the city limits. Is it in there? The county is part of it, I think."

**WEBER** "It is in there. I don't think it is reflected in the plan, but we are participating in that project, bringing it down to 63<sup>rd</sup> Street South."

**GAROFALO** "Why wasn't it in here (indicating)?"

**WEBER** "I am thinking because it is showing up in 2001 or 2000."

Warren arrived at the meeting at 12:25 p.m.

**HENTZEN** "Mr. Chair, I don't have an individual question, but I would like to, if I could, share with all of the other people, what I felt as I went through the whole thing. I am not asking you to change it, but I just want you to know—I just want to present some general questions if I may do that.

I do want to tell you that the Capital Improvement Program at the County, I believe started in about 1982. I believe Tim Witsman was the County Manager at the time. They started on an 8 year program, I think, and I happened to be there from 1985 to 1993 and we worked on and approved much of the C.I.P. of the County. In addition to that, that was the time that we got the public vote and approval for funding 50% of the mil levy increase—the 1 cent sales tax that had been proposed for 5 times and it failed every time. But in 1995, the citizens approved the 1 cent sales tax with the understanding that half of it would be spent on County improvements and the other half was to relieve the property tax increases. That has been in operation since then.

The first thing that I would like to point to of the things I saw as I went through this thing was on Page 282, which is the second page of the summary, was \$53 million, and included with that are the improvements at the Coliseum. What my thoughts were on that is that we got WSU out here making an extensive improvement on their field, and then we have Sedgwick County with programming extensive of our Coliseum, and then we have somebody here at the City of Wichita who thinks we should build another arena. I just wonder if we need that many public buildings all at the same time when the school board has already got us to pass a major capital program for schools. In fact, now we are talking about another vote to raise taxes for some salaries or something, and in fact, the downtown people got that little TIF approved for whatever that was on the downtown building owners. It just seems like there is an open end on what everybody wants. I think it is going to get to the place where we can't afford it.

Now on your recommendation or observations that we can't do all of this stuff because our self-imposed debt limit at the county was 5% of the taxable property in the county. So, we run up to that debt limit and then we just wrote it in at a higher level. Now they are suggesting 7%. Well, I just want to ask when is enough enough of borrowed money to do everybody's wish list?"

**KROUT** "Maybe this would be a good time to say this while it is fresh. I think that he was thinking that maybe there was some clarification about the Coliseum money that he wants to explain."

**GIROUX** "We were simply—by including the planning and follow-up construction, we wanted to keep it visible within the C.I.P. rather than having to re-enter and protect that option for future action rather than not include it or wait until the decision was made on the downtown arena. I expect that will, of course, be a vote."

**KROUT** "In other words, there wouldn't be a \$50 million expenditure on the Coliseum if the referendum passes and a downtown arena is built. I think there is still some amount of remodeling that they would do to the Coliseum."

**GIROUX** "The Coliseum is over 20 years old and there are certainly some requirements and there has been previous discussion on what level of remodeling. We do need to continue to address ADA compliance there."

**HENTZEN** "I appreciate the clarification, but I can tell you that you will have some remodeling up there regardless of what happens, and as long as you have that in the budget, the city would say 'well, now that you have that in the budget, we would like to put the rest of it into the downtown arena'. In other words, you are going to be spending it. That is the case."

Now, on Page 2 of the spreadsheet, I see some expenditures in the Health Department building study for 2002. Did I not see in the local paper recently that the City of Wichita is spending some money on a study to decide whether the cooperative effort of the county and the city at the Health Department is going to continue?"

**GIROUX** "It is a joint effort, sir."

**HENTZEN** "I know it is a joint effort, and it has been that way for years and years. Now, all of a sudden, the city is trying to make a decision if they are going to continue it. But let's don't address every point. I just wanted to tell you what things I saw. When I get done, if you will tell me if I have the whole thing wrong."

I just am saying that they are in fact doing the same thing, if I understand it correctly, and you've got some funds in here for EMS facilities, but didn't I see where the city has a study is having a study made right now to determine whether the EMS arrangement should be continued as it is, or should they go out on their own. I don't know what they are thinking about that. In fact, at the bottom of Page 3, we have the dispatch center and emergency operations center and a whole bunch of money for 2002. What is the next proposal if they do the EMS change that they are now considering? What is the next proposal, a separate facility for the dispatching of the city? God, I hope not. I just hope not."

There is some more stuff there on EMS, but on Page 4, down at the Treasurer's office, there is a bunch of money for 2002 and 2003 for the tag office. I am not real sure, but I think the county bought that. Did they? We aren't leasing it. I think we own it now. Okay. That was the only question I had there."

And I would like for you to help me with this—I think it is drainage—on Page 6, construct the north Waco detention basin pump station. And then the south Waco detention pump station. There is considerable money scheduled for that, except it is stretched out until 2006 and the future. Then down to the bottom of that page, the last two are saying to enlarge those things that you just put at the top of the page. Couldn't we do it all at the same time?"

Then on Page 10, the third project up from the bottom is the right-of-way acquisition for the Northwest Passage. That is kind of put out there in the future. I want to ask Jim if he can tell me where, if we have described enough of where that Northwest Passage ought to be. Does it start east of Goddard—does it start west of Goddard, does it go around Goddard? In fact is that the map I saw the other day that one of the staff people gave me, and it was a good map, it has that big pink Northwest Passage on it. It may not be in here, but I will show it to you—it shows it in a different location. The two maps do not agree. I am wondering if we ought to be more specific as to which map we are talking about. Thank you, Mr. Chair."

**WEBER** "I just want to hit a couple of those real quick. On the drainage projects down south, we have shown every project identified in that southern Sedgwick County drainage study in the C.I.P. just to track them and keep them on the list. Those detention ponds are showing in two phases because they are essentially going to be potentially done through some cooperation with the private sector—basically sandpits that would get pumped out over time and utilized for drainage on purpose. Not like we do it now, which is go capture everybody that does a sandpit. So they wouldn't need all of the capacity at any one time, so they are being phased out. They are shown in the future because we really don't know."

The K-96 Bypass—we were looking at the spreadsheets and we do have an error there. That should be in 2005, not in the future. There was an agreement on the agenda yesterday between the county, the city and KDOT that created some funding for a study. It actually started that process of doing the right-of-way thing. I can't answer the question of where it is, but I think the process has begun to nail that down as recently as yesterday."

**GIROUX** "Both the Health Department and the EMS are jointly funded discussions and are as even-handed as we can make them, I think."

**ANDERSON** "I have a couple of questions relative to the preparation of the Capital Improvement Program. Were there any policy guidelines established by the County Commission relative to the projects that were included in this proposed program? For instance, you've got a question relative to the City's Coliseum proposed project. Was that discussed in any way, or is there any kind of a stated policy on the county's position relative to that project?"

**GIROUX** "Again, I have been with the program about 6 months. The Coliseum, I believe, was included in last years' C.I.P."

**ANDERSON** "At \$50 million?"

**GIROUX** "I'm not sure. I would have to look and give you an answer."

**ANDERSON** "What is the impact on the County's tax levy on this proposed program? Do you have that information available?"

**GIROUX** "Not immediately available. We can get you that answer. The recommended budget does not include a tax increase."

**ANDERSON** "Even with the County's improvements to the Coliseum?"

**KROUT** "I think that is for 2002."

**GIROUX** "Yes, that is for 2002."

**ANDERSON** "Yes, but you can make projections of tax levies beyond next year. I would be very interested to see that because you are showing a definite curve off of the chart with the proposed program in terms of raising the debt limit. The debt limit wasn't increased until 1991 the last time. Is it the County's intent to raise that debt limit?"

**GIROUX** "What is shown in that chart is a worse-case scenario."

**ANDERSON** "The problem I have with this is that from a supposition standpoint this program can't be financed within your existing debt limit. So until you do make a commitment to make that kind of change, you are not really able to make any kind of a decision relative to a capital improvement program."

**KROUT** "To the extent that this is a C.I.P. beyond this year's planning document, all it does it state intentions. I suppose you could read into it that there is an intention that the Coliseum project is important enough that if they need to, they will seriously consider raising that limit. But they are not making that decision because that decision won't come up until about the same time next year. This is a planning document, so it indicates that this is important enough for them to include it in the C.I.P."

**ANDERSON** "I think it is excellent. I think we should do that. In order to have some kind of guideline for the submittal of projects and what is going to happen in terms of improvements in the county. But again, in terms of planning, I think that you can go ahead and make some commitments to do certain things or else you are just operating from day to day, and whatever happens to come up next week, we will do. I think that the whole planning process is corrupted as a result of that."

**MCKAY** "Jim, I have a question (unable to hear here) go on a drainage basis that you are going to dig sand pits and run water into it and everything. Does that have any effect on the NPDES regulations? Because they are telling developers now that they can't drain the street water into the sandpits when you build your houses around a subdivision."

**WEBER** "I am sure we will have to use an integrated approach on that, I don't know. We are just getting into that."

**MCKAY** "That is all I am saying. If they are going to spend the time to do that and that is their game plan—if it is good for the goose, doesn't make it good for the gander also."

**WEBER** "Our people who are doing storm water management and would do these projects, are the same people who would be working with the NPDES stuff. So all of our efforts would be coordinated and if there is something required we will figure it out."

**MCKAY** "Sooner or later, because this is a major, major concern in the development community right now."

**WEBER** "Probably sooner and later. We would be dealing with the development community on them in the near future, but the things that we are talking about in the plan are beyond 2006. So we will have an opportunity to work with the development community on the things they are doing and figure out what can and can't be done. By the time we are actually ready to do these things, we should know how to handle them."

**MCKAY** "I am saying that if in the process between now and 2006 or whenever it is, do we maybe need to sit down with the development community and try to work out some kind of standard that with your help can be developed through KDHE or somehow let the developers utilize the sandpits that are basically there now instead of saying that they can't dump water into them because of the pollution problems."

**WEBER** "I definitely think that we are interested in that because whether they are going to be privately created ponds or publicly created ponds, we need those ponds out there and we need them to function in the storm water detention facility."

**HENTZEN** "Another thing that comes to mind while you were speaking was that the County has generally always had a very favorable bond rating. One of the factors that goes into that is what kind of a debt limit do you have on your borrowing? If we put all of the future stuff in, we would probably have to raise that debt limit to 3 or 4 times what it is, and that would hurt the bond raising that the County has when the issue bonds. So I don't know whether this 2% raise in the debt limit will punch into that, but I am sure think before we do it, we ought to look at that. I don't know what the County bond rating is now, probably double AA or something. It was variable for a number of years. This has been a conservative county and they kind of know where the money is coming from in the C.I.P."

**GAROFALO** "I was just wondering whether the paying station where people go in and pay their tickets, etc.—it is almost like a million dollar project. Is that included?"

**GIROUX** "That is the first floor pay station in the county, and it is in the neighborhood of \$740,000 and is a 2001 project. We used prior project funds to fund that."

**GAROFALO** "So that already has been funded basically so it is not included in here."

**GIROUX** "Yes, sir."

**MICHAELIS** "Is there any further discussion?"

**KROUT** "Just to remind you that there are a couple of reasons why you are reviewing the C.I.P. One is the statutory reason that the state law requires the Planning Commission to review capital improvements before they are constructed and to advise the governing body, both the City and the County as to whether or not something that is in the Comprehensive Plan that relates to an item in the C.I.P., whether there is anything that is inconsistent between the two, so one of the things that we are asking you to do today is to find that the proposed projects are consistent, unless you feel otherwise."

The County Commission can go ahead and do a project that is inconsistent with the Comprehensive Plan and in fact, in doing that, what that does is automatically, according to the state law, amend the Comprehensive Plan to include that item as part of the plan.

The second thing is to give the County Commission and the City Council—when the City C.I.P. comes—your best advice on priorities and on living within a budget and other issues that you think are important. So everything that you have said is being captured informally through the minutes and will be transmitted to the County Commission. If there is anything that you want to single out for special attention and actually vote on, the Planning Commission voted as a group, as opposed to individual comments, then you are free to also make a motion this afternoon to that effect, and if it passes, I will transmit that on to the County Commission.

I asked our staff—the Transportation and Land Use people—to look again, although we looked earlier at the County C.I.P., and I just wanted to point out to you a few projects that came to our attention. We did not find any projects that are in the funded years of the C.I.P. 2002 to 2006 that were inconsistent, so I think you can make a motion that all of those projects in the 2002 through 2006 we believe are consistent with the Comprehensive Plan and we would like a motion to that effect, or with any exceptions that you think are appropriate.

There are a number of projects that are identified in the County C.I.P. in future years where the County Public Works Department identifies that these may be projects that may be worthy of funding in the future, so they are going to keep tabs on them. They are projects that in our 2030 Transportation Plan, we could justify that there would be enough traffic to warrant the improvements to four lanes. Those include—I won't name them all, but I remember like Meridian from 71<sup>st</sup> to 79<sup>th</sup> Street.

There are some projects that because they are in future years and they are not funded, I don't think that you need to talk about inconsistencies on them. There is a new project that is in the C.I.P. under 'roads and bridges' this year called 'ITS' Intelligent Transportation Systems. I don't think we have given the Planning Commission a briefing on that, but since Jamsheed has prepared one for a City IT Committee, it would probably be a good idea for us to come back to you in a workshop and talk about 'ITS'. It is basically the use of current technology to try to get efficiencies and solve problems in the surface transportation system.

There is about a 10-year history of development of some of these techniques. There are lots of new techniques that are being invented every day. There are whole new industries that are being spun off every year to look at these issues. So it is something that you ought to be aware of because if this partnership that we have been talking about between the City and the County and KDOT goes through, there is an estimated \$5 million or so over the next 5 years that would be spent on technology related improvements so that you can have a safer, more convenient transportation system without necessarily having to widen all of our freeways, let's say, from 6 lanes to 8 lanes in the future.

There was one project, and maybe I will let Jim comment on that. It is not in the C.I.P., but we know that there has been some recent discussion about the need to give this some quick attention, and that is the north Broadway bridge over the railroad tracks north of Broadway and in the area at about 45<sup>th</sup> Street North of I-235. You will be talking about that shortly as the Metropolitan Planning Organization in terms of the possibility of trying to find a place in the federal scheme of things to find some money to deal with that bridge, which is in real need of attention.

Outside of roads and bridges, there were a couple of projects where there is something in the Comprehensive Plan that kind of relates to a couple of issues. One is the issue of the sports arena. The plan recommends the construction of a downtown sports arena. That was in the adopted plan that the Planning Commission passed and both the City Council and the County Commission adopted. I don't think it is inconsistent that the County has money in here to build a substitute larger facility if the referendum does not pass, but I just want to bring that to your attention that the current plan does recommend the downtown sports arena. I don't think that by doing this that the County is saying that they are not in favor of that either.

Second is that with regards to the 911 Center, the emergency communications center that does need to have a new and larger place to locate—Dave brought it to my attention that the plan talks about the need for functional consolidation and approved coordination between service departments, both City and County in emergency services. I think that the 911 money is set aside to build a building and for equipment. It doesn't say where exactly it will be built and it doesn't say exactly what functions it will house.

As Pete said, there have been a lot of discussions about where to locate it and what functions. It might house in terms of intelligent transportation it might house some of these technology-related transportation functions. There has been a new discussion about the Rounds & Porter Building that has been sitting there for a number of years and whether or not there should be some consolidation of some departments together so that there could be face-to-face contact as well as electronic contact.

So I guess I would say that there is nothing inconsistent about 911, but exactly how that is built and who it would include I think is important in terms of the goal of are we trying to coordinate emergency services as well as we can.

I did want to mention one other project. I think it is a new project. I'm sure this is not that Jim has relatives in Rose Hill, but there is a fairly significant project—a \$12 million project to take 63<sup>rd</sup> Street from the Butler County line to probably Rock Road."

**WEBER** "There are a couple of different phases to that."

**KROUT** "It is a \$12 million project to widen from two lane to four lane, and there is a fair amount of traffic. There are about 5,000 to 6,000 cars a day and it will increase as Rose Hill increases. But my personal suggestion would be that we build that as a toll road so that the only beneficiaries of that road, which are Rose Hill residents can pay their fair share of the cost of that pretty large improvement. But we do want you to deal with the issue of consistency before we do decide."

**BLAKE** "I want to go back to Mr. Garofalo's question. On the street called Hydraulic, and originally I think they planned on going from 47<sup>th</sup> Street to 57<sup>th</sup> Street for the City and the rest was going to go for the County from 57<sup>th</sup> Street to 63<sup>rd</sup> Street."

**WEBER** "That is correct."

**BLAKE** "Okay. Now that is not in this plan either?"

**WEBER** "It is in there. We may not have it properly reflected in there, but it is under design right now. We had 63<sup>rd</sup> from Hydraulic over to K-15, and all of that will tie in together because 63<sup>rd</sup> Street is a major arterial in that part of the County. It is the best way to get to Rose Hill. And no, I don't have any relatives over there."

**ANDERSON** "Mr. Chair—not being on this board that long, I have had no real knowledge about what is in the Comprehensive Plan—and I am not, and I will just say this publicly—that I am not in favor of a downtown arena. I haven't been for a long, long time. I think what we should do is to treat the County's efforts to try and rehab that Coliseum in a meaningful way. I think that is what the County Commission should do then in terms of planning for the future, the operation of that solely out there.

The problem I have today in trying to approve of this action here if it is in compliance with the Comprehensive Plan is, is that the Comprehensive Plan includes the possibility of the City building a downtown arena. Therefore, I couldn't vote for the approval of that. I don't know when it was included in the Comprehensive Plan, whether it was done recently or whether it was done prior to the referendum we had before. It was denied by the public then. That is kind of my position on this. I have no problem with the County's proposed program at this juncture, but I feel like it is going to be difficult for me to include any kind of an action which is contingent by the County on that City project of the downtown arena."

**MICHAELIS** "I would like to say that we are not really here to discuss all of the different elements of this. We are here to basically decide whether this is in conformance with the Comprehensive Plan, and rather than debate that, I wish that someone would make a motion to that effect."

**MOTION:** That the Metropolitan Area Planning Commission find that the County Capital Improvement Plan is consistent with the Comprehensive Plan.

**MCKAY** moved, **MARNELL** seconded.

**BARFIELD** "I came in late and I would just like to be sure that I have a clear understanding. Under the 'facilities to expand and remodel the Coliseum, are we talking about \$53 million?"

**MICHAELIS** "Well, yes and no."

**BARFIELD** "It is in the report."

**MICHAELIS** "It is in there just to have it in there just in case."

**BARFIELD** "I would feel uncomfortable going for that until I had a better knowledge about what we are talking about. The way it looks here, that is \$53 million for the Coliseum and I certainly wouldn't support that at all."

**MICHAELIS** "Correct me if I am wrong, Mr. Krout, but I don't think we are voting for any of these projects. We are just voting to determine whether this C.I.P. is consistent with the Comprehensive Plan. We are not voting for any of the projects that are listed there."

**ANDERSON** "I can advise this board that future policymakers who will be considering actions at this time will look to this Planning Commission's decision relative to your approval of this program in that there is no conflict with the Comprehensive Plan. It is going to be interpreted as an approval by the other policymakers. I can assure you that it has been done in the past that way and that it will be done so again. If you have a \$50 million project in there that we have said there is no problem with and that it doesn't conflict with the Comprehensive Plan, they are going to take that as an approval."

**MICHAELIS** "All right. We have a motion on the floor. If there is no further discussion, we will take a vote."

**VOTE ON THE MOTION:** The motion carried with 7 votes in favor (McKay, Michaelis, Marnell, Garofalo, Warren, Coulter and Johnson) and 4 in opposition, (Blake, Barfield, Anderson and Hentzen).

**KROUT** "If you have any individual motions that you want to make to pass on to the County Commission about the C.I.P., I would say that this is the proper time to do that."

The other thing I want to say is if you want to revisit issues and policies that are in the Comprehensive Plan like the downtown arena, we are planning to bring you a review of the plan and the advertised public hearing in a month or two. That would be the proper time to make recommended changes to the plan."

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**2. Approval of MAPC minutes for June 21, 2001**

**MICHAELIS** "I would like to suggest that if you have any corrections or changes, you will just get them to the secretary later."

**GAROFALO** "Mr. Chair, I think this is important. On Pages 42 through 47, there was some kind of mix-up. I contacted the secretary during the week and she has made those corrections."

**MICHAELIS** "Okay."

**MOTION:** That the minutes for June 21, 2001 be approved as amended.

**MCKAY** moved, **COULTER** seconded the motion, and it carried unanimously (11-0).

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**3. Approval of Hoover-Dugan Improvement Project using KDOT's Economic Development funds.**

**JAMSHEED MEHTA**, Planning staff "Mr. Chair, members of the Commission, I am going to talk to you about an application process that we go through each year. The state provides us with the opportunity to partner with them on three types of funding projects. These are state funded projects, not federally funded, but they still recognize you as the coordinating body and therefore all applications within the urbanized area of Wichita/Sedgwick County would go through you.

Those projects which are outside of Wichita's urbanized boundaries will not go through you, but just for the purpose of information, I will mention that the City of Valley Center is interested in pursuing the economic development funding project to do something associated with their industrial park. But that is not for your decision. The purpose we are here for today is to endorse three projects, all three submitted by the City of Wichita. We have just handed you a new memo on blue. What we are doing here, since in the package we only mentioned one project, but since that project there are two additional projects in the same vicinity and we have combined all of these together here.

The first project is going to be using what is called Geometric Improvements funds. It is primarily to improve the intersection of K-42 and Hoover. You can only use this funding type on designated state highways in the urbanized area.



It is costing about \$1.3 million. The local share of that is going to be about 25%. Then everything else on Hoover from south of 31<sup>st</sup> Street all the way across Cessna's frontage on Hoover Road to about Harry Street—and on this project and the one that I just talked to you about the intersection at K-42, the city, through this M.P.O. had applied for this last year and it did not get funded. We are resubmitting it. In our re-submittal last year, we had applied for only \$3.5 million worth of improvements, and there is actually nearly \$11 million here. It takes into consideration some massive drainage issues that are associated with Hoover Road. It goes under water every time it rains and some parts of it are really drenched, and it turns into lakes over there. So there will be a significant drainage improvement associated with the widening of Hoover Road to a fairly decent standard, probably four lanes all of the way.

And then a new concept that has been identified for the first time this time—and that is taking that point from Harry Street, taking Hoover and connecting it to Dugan. Right now, you can get by doing that using a street called Pueblo. It has some turns associated with it—some turning movements that trucks and other vehicles couldn't maneuver it as well if you improved on that same alignment. The engineer for Cessna, P.E.C., and the engineer for the City of Wichita proposed this real tight 'S' curved alignment, and they think that this would be an opportunity or a way to bring in a lot of employment related traffic from Cessna and there are so many other major employers along Hoover in this part of town who could take advantage of accessing from the frontage road of Kellogg rather than just having Hoover Road connect to K-42 on the south. This would be an opening up of the street network system onto Kellogg at Dugan.

At this stage, we are putting in an application for the year 2005. For example, if this were to be approved, what we would be doing at a later time is to come back to you and ask you to amend the transportation plan. (Indicating) this section over here is not in your transportation plan, either for widening or for improvement, etc. We will have to do some studies and then we will come back to you and tell you what the total impacts, etc., are, but at this stage, because there is a funding opportunity available, we are putting in an application anyway. If it is a good idea we will come back to you for an amendment to the Transportation Plan.

So these three projects put together would take you from Kellogg all the way down to south of K-42 to the entrance of Case, south of 31<sup>st</sup> Street. These are the only three applications we have received from within the cities and Sedgwick County for this year's funding site. What we ask of you is the endorsing of this project—it still goes to the City Council because they are the ones who will be providing the local match for these projects, and by resolution, when they do that, staff will prepare the application and try to meet their deadline, which is the end of this month. Are there any questions?"

**WARREN** "This Hoover, as you are showing the dark lines as it goes on over towards Dugan, it is already there, isn't it? All we are talking about is improving it."

**MEHTA** "There is a street called Pueblo there."

**WARREN** "Does it run right along the railroad track there?"

**MEHTA** "Yes. This is a new street. It would do what Pueblo does only the railroad track in that section might be the one that is being abandoned and there are some improvements associated with it. There are also some drainage improvements that would happen in conjunction with these street improvements. It opens up some more area for development and handles drainage a little bit better."

**WARREN** "So it is an existing street now as it runs up to that curve that goes west and that would be new then, huh?"

**MEHTA** "There is Dugan and then there is Hoover that goes straight, and this 'S' curve that links those two. They are connected today through the street called Pueblo, but this would allow for more significant movements."

**MICHAELIS** "Are there any further questions?"

**ANDERSON** "Do these projects require an amendment to the current Capital Improvement Program?"

**MEHTA** "I would guess (indicating) this section, yes and there is some C.I.P. funding, I believe, identified in the existing C.I.P. for this section here. Now, as you can see, what is the local share in each of these projects—the intersection to the south, the local share is \$315,000; and the rest of it from 31<sup>st</sup> Street or from Case all the way to about Harry, the local share is \$4.7 million. I am not sure that we have the full \$4.7 million in the C.I.P. All of it is not there, but some of it is. Maybe about half to a little more than half might be there. So when they amend the C.I.P. sometime in the next couple of months, they would obviously have to take care of this.

Also, this is subject to the state's approval of these applications. This is not guaranteed monies. It is discretionary funding state-wide, and if approved, the City Council would have to amend the C.I.P. if they don't have it already."

**ANDERSON** "How does the City Council do that? Do they then have to take a project out of the C.I.P. to accommodate some new project? If you have a current Capital Improvements Program, do they have to deduct something?"

**MEHTA** "If they want to keep their bottom line constant, yes."

**ANDERSON** "Well, that has been the practice for the last few years, I know."

**MEHTA** "They could identify other sources as well. There is always certain elements of federal funding. You can mix and match federal funds. For example STP funding, and this body has a lot to do with those kinds of funds, and add to that list as well."

**MICHAELIS** "Is there any further discussion? If not, I would entertain a motion."

**MOTION:** That the Metropolitan Area Planning Commission endorse the projects.

**GAROFALO** moved, **BLAKE** seconded the motion, and it carried unanimously (11-0).

4. **MPO's Recommendation for KDOT's proposed route changes on Highways US54/400.**

**JAMSHEED MEHTA**, Planning staff, "This item is a proposal by the state once again. In February of this year, the Bureau of Planning at KDOT requested our assistance in seeking input from all affected cities and counties regarding their intentions to make some route changes in Sedgwick County and in Butler County. You have received in your packets our findings after an extensive effort to get input from communities that may be affected. This matter is before you because again, you are the designated MPO, and although your jurisdiction is only within Sedgwick County, as staff we have assembled information from both counties in order to address all of these issues. At the end of this brief presentation, you have the option to recommend your preferences regarding KDOT's proposal or you may ask us to simply assemble the information we have gathered to date and submit it to KDOT for their consideration. We do have the individual letters and we will send them out to KDOT as our 'work done' for collecting information on their behalf.

There is a colored graphic that you have. If you will look at your handouts on this subject, what we are talking about is the Northwest Bypass that really triggered all of this. It all started at that time. As you know, the major investment study, which concluded about two years ago to identify and to preserve the corridor, and we just briefly talked about even that in passing in approving, or at least endorsing the County's C.I.P. The question was what happens to that particular corridor and what kind of a name or number do you want to give to the Northwest Bypass? About the same time last year, the state also approved the Goddard Bypass in conjunction with the Northwest Bypass.

Mr. Hentzen, to answer your earlier question about where is the touch-down point, and you mentioned two or three locations, it is all of the above. The Northwest Wichita Bypass is east of Goddard at Kellogg. The Goddard Bypass does go north of Goddard and touches down somewhere west of Goddard. These two bypasses when put together make up what KDOT assumes is the greater bypass, and therefore Highway 54's question comes up, what number do you want to give to these two new facilities?

So that is what the state wants to do and they are asking us if it is a great idea or not. The first inclination; however, was to use K-254, so on your map, if you can identify where K-254 is from El Dorado and it comes all the way up to I-135. The first inclination was to extend that from I-135; go over that part of K-96 on the west side and then start coming down towards Goddard. It will be an extension of K-254. On the other hand, they thought why not take Highway 54, which is our Kellogg, which is at the point of El Dorado anyway, and instead of coming down Highway 77 towards Augusta, then through Andover, and through downtown Wichita, extend it straight. By doing that, they claim they have some savings in that there are some signage issues and you won't have so much duplication of US54 signs as you will be taking out 52 miles of Highway 54 and putting it on exclusive highway and then eliminating K-254 completely.

Now, let's talk about just US400 which is mainly a south Kansas Highway. They call it a US highway, but it is a multi-state highway. It is multi-state to the extent that it is one mile into Missouri and it is 14 miles or so into Colorado. On the Missouri side, it is just south of Joplin and it interchanges with I-44. That is significant. On the west side in Colorado, it is a place called Grenada, which does intersect with another US Highway 300 something. But in terms of significance, Wichita is probably the most significant city on the entire route.

The thing about US400 is, and this is also something to consider—every highway system—the US Highway system initially has either a one-digit parent highway or a two-digit parent highway. For example, you have Highway 54 and you can have 254 out of that as a sub-set of 54. Or you have I-35, so you can 135 and 235. In the case of 400, it doesn't have a parent it belongs to; it was a hybrid created only about 6 years ago in conjunction with what some City Fathers were thinking about should be the important route through this area. It doesn't belong to any other previously chosen highway route system.

Now, look at US54. It stretches from some part south of Chicago, Illinois to El Paso at the Mexican border. So in terms of recognition, you can identify that what US54 means to cities close by or on it or businesses that use that name or businesses that are associated and get some market share out of US54 oriented traffic in relationship to the 100 in blue.

From a multi-state prospective and at this scale, it really doesn't matter whether the highway goes through our downtown or through the fringe area as long as we have a multi-state highway go through the area. From a local prospective, there are various differences and various issues. Just to quickly touch on this, you do have, on my blue sheet all of the details that I have identified. The Kechi Chamber of Commerce feels that this would be a positive change for them. The City of Goddard, the only other city—and there are only two cities so far that have sent messages back to us saying that they are in support of it—and Goddard feels the same thing. It is not the City of Kechi, it is really the Kechi Chamber of

Commerce. There are some other who aren't really cities, it is their Chambers of Commerce who are really making these pitches to us.

The City of Goddard favors this change because they don't want to see their city split in north of Highway 54 and south of Highway 54. So they would like to see this 54 alignment be on their new Goddard Bypass, part of the northwest Wichita and Goddard Bypass systems. It is north of Goddard. However their city is still split by what is Kellogg today, which will continue to be US400, so Goddard will have north of 400 and south of 400 if they were thinking that that is going to be turning into a county road, but I don't think so.

To a limited extent, the completion of the Northwest Wichita Bypass will provide some benefit in diverting through traffic off of Kellogg and central Wichita. That is the idea—it is a bypass in that sense. But we don't think that the change in the route numbering per se is the reason why we will be seeing that shift. I think truckers and other users can change highways anyway, they don't have to be on Highway 54 just by name and definition.

Then there are three other communities that did respond and they responded negatively to this. The Augusta Chamber of Commerce and they said it rather vehemently. The City of Augusta had some additional questions to ask of the state and I think they are tilting towards not necessarily being in favor of this, although they haven't yet sent word back to us yet.

The City of Towanda—strangely, in this case—it is on Highway 254, which in this proposal 254 disappears and gets replaced by 54. One would have thought a city on a route like that would have thought getting recognition of being on a significant multi-state highway would prefer the idea, but apparently, they aren't in favor of it and they have the same reasons as the Augusta Chamber of Commerce. They think it would be a burden to those who are already used to the fact that there is already a 54 already here. And the City of Andover—and predictably so—it is going right through the City of Andover, and they are not in favor of the change.

If you will look at your map and imagine additional loop highways in the southeast quadrant and the southwest quadrant. So you line up with K-96 on the east side and take a look towards Derby and Haysville and come up to I-35 and take another similar quadrant, the southwest quadrant and take it from where the Northwest Bypass comes down towards Haysville and they meet somewhere on the turnpike on I-35. What happens then when those highways come about in 20 to 30 years from now, or a new extension of a highway from where K-96 is at Kellogg on the east side and goes down towards Mulvane. And we talked about that in the long-range Transportation Plan for the year 2030 that we will be looking into those highway alignments.

If you have only 400 designated as what it is on Kellogg, then what do you call these circumferential or bypass highways? While there isn't any strong argument against it based on what I am just telling you, I guess one recommendation at least, or comment to the state would be that they seriously consider retaining a state/US highway designation through Wichita that we don't lose it at any point in time. By 54 itself moving about technically doesn't impact the routing system, but what happens later when you go to the southeast and the southwest. Those would be our only concerns at this point and it is up to this body whether you would like to add your comments in conjunction with the 5 others that we received. We also did receive some comments from individual citizens because this was advertised in the paper and there was a story on it. There was a comment section on the City's and County's website, so we have had some feedback from citizens, which I haven't quite mentioned over here. One of them is in favor of the change, two of them were opposed to it. One of them that was opposed to it did bring up a good point. It had to do with what about the history and the tradition? US 54 has been this highway since 1926, and we are making a significant change in that context. There were two businesses identified by the Augusta Chamber of Commerce that use the 54 Highway in their business name.

Just an hour or so ago, we were rather casually going through the telephone directory and we found there were two or three similar Wichita area businesses also that did use 54 in their business name. With that, are there any comments?"

**WARREN** "As you pointed out in one of your graphs here, 54 is a viable highway running from Wichita going all the way to Texas and will remain so, won't it?"

**MEHTA** "That is correct."

**WARREN** "Okay, and I think I am hearing you suggest that maybe we drop that designation just as it comes through Wichita? All of a sudden 54 becomes 400 and then again it becomes 54?"

**MEHTA** "No. Highways 54 and 400 are running together on most of Kellogg."

**WARREN** "I know that, but I am hearing you suggest dropping the 54 as it comes through Wichita and not identifying it."

**MEHTA** "Dropping that but replacing it on what is K-254 to the north. Essentially it is a shift of about 7 miles from the existing alignment north."

**WARREN** "What happens to it until you connect it, though, with the west exchange out there?"

**MEHTA** "At the west point somewhere near Goddard, probably east or west and west of Goddard, it continues to be, again, a dual highway US54 and US400."

**WARREN** "So at that point, you would still leave it dual?"

**MEHTA** "It is dual. There is no other highway for it to go on, so it is dual again."

**WARREN** "So 54 would have continuity coming down through Wichita and 400 would take on another identity?"

**MEHTA** "Yes. Right now, 54 and 400, these two highways are dual for 152 miles. We will take out 52 miles and keep 54 separate, still leaving about 100 miles of dual highway, but that is west of us where it gets dual again."

**BARFIELD** "To me, this would only cause mass confusion. Can you imagine someone planning a trip, say leaving Chicago and going west and having to deviate or having to try to figure out what is going on when 54 turns into 400. I don't see the necessity for that. I see that as mass confusion, I see it as an inconvenience to businesses that are located along this route and I would be against it, myself."

**MARNELL** "Jamsheed, what difference will this change in the designation of 254 from a state highway to a federal highway. What difference will that make in funding?"

**MEHTA** "It would make no difference. K-254 is a Kansas highway. The US highways are still state highways. The states have the rights and they have a lot of control even over what is 'I' designated highways or US designated highways. They are the agents of the federal government and essentially act as though they are owners of those highways."

**MARNELL** "As I see this thing when you look at it as somebody traveling through the area, getting to El Dorado, coming across, now that 254 is being improved, it looks like a logical extension to make it a straight path, and probably an easier path to travel for somebody going through. It makes a lot of sense to me."

**HENTZEN** "I am just going to ask Jamsheed, would you repeat, and I think you started off with this information—exactly what Goddard and KDOT has done right now. What was that that you were saying?"

**MEHTA** "The City of Wichita and Sedgwick County and the State—these three entities partnered together using federal funds three years ago and did a major investment study. That study concluded about 2 years ago with the recommendation that you should go ahead and preserve the corridor. That there is a need for the Northwest Wichita Bypass. In that same study, the state asked its consultant to also add in a component whereby a bypass over on the north side of Goddard would also be considered."

Now this is a separate thing. The state, last year, approved a city/county joint application through system enhancements. That is the one where we got some awards for Kellogg projects. We also got this one for the Northwest Bypass, but only up to the state of 'you preserve the corridor', which means you have to do a detailed enough design to know where your highway is going to be and then go and acquire it. Now, that process has just started a few months ago. They will have to examine maybe half a dozen different alignments and then through the process of elimination, after doing environmental checks through the EPA's requirements, they will identify, eventually, one or two routes for final decision by the governing bodies, where they would like to see this. Or, at that stage later, there will be acquisition of properties to reserve the corridor.

Goddard made a similar application to the state when Wichita and Sedgwick County made their application for northwest Wichita, Goddard made an application for that part of the bypass that would go north of their city. The state approved both and because of the proximity situation, they are going to deal with it as though it is a single project, so we tend to call it the Northwest Wichita and Goddard Bypass. All in one breath because it is going to be one big project."

**HENTZEN** "Okay, what you are saying, and I think I've got a better handle on it now, is if anybody in Goddard asks what is the Northwest Passage and you gave them this map, it would not be the total truth."

**MEHTA** "It would be half -true."

**HENTZEN** "That's right."

**MEHTA** (Indicating) "This is the Wichita Bypass section. The Goddard one will be another circumference highway on the north here. And they would both come down on Kellogg. It is no interest to the northwest Wichita's growth area if, in fact, citizens cannot use a highway facility to go down to Kellogg and it goes all the way over to Goddard. We did traffic studies with KDOT and their consultant and I believe at that time there was very little traffic to justify that section which is why we, as the City of Wichita and Sedgwick County weren't pushing for an alignment touchdown point west of Goddard. That was also one of those many proposals. We had 2 or 3 alignments. The ones that the steering committee of that study decided and voted on and proposed to the governing bodies was a touchdown point on Kellogg east of Goddard."

**HENTZEN** "Okay, so really, we should clarify this when they ask what is the Northwest Passage. It is this map (indicating) and this map."

**MEHTA** "The one you see is a rendering that we borrowed from KDOT. That alignment which this shows as the Northwest Bypass, the dash line in red is too close to the City of Wichita. It is going to bulge out further westward. It is only intended to be conceptual. You shouldn't use it as having any level of accuracy to it. It is as conceptual as the pink band that we drew on the big map, or the map on the wall."

**HENTZEN** "But is all going to be called one bypass?"

**MEHTA** "Yes, it is being built as one big bypass project with both Wichita's and Goddard's concerns patched together."

**ANDERSON** "Is it the staff recommendation that the MAPC approve of the state's request here?"

**MEHTA** "KDOT's reason to solicit us to do their work for them was just to get information. What we are doing here is reporting to you the information we have gathered to date. You have all of the rights to add our own comments to the ones that we have already received from these other communities and we have forwarded that to them."

**WARREN** "Just as a matter of clarification. On this little map they are showing a dotted line going from the bypass on west. It looks like it is on the north side of Goddard. What happens to the old road, 54? Would it be just a public street then?"

**MEHTA** "Old road 54 continues to be US400."

**WARREN** "You are going to have two running parallel?"

**MEHTA** "Exactly, so you can imagine the jurisdiction of Goddard has two highways—54 a brand new one on the north side and old Kellogg, which is 400 still, right in the middle."

**WARREN** "How far north of Goddard is this new bypass?"

**MEHTA** "That would come out in the next year to year and a half when the consultants show what is the best alignment from environmental standpoint of least impacts to the existing residences, etc."

**WARREN** "But we built two interstate roads, one right next to the other parallel."

**MEHTA** "It wasn't an idea in the original MIS study, but Goddard and KDOT chose to push for that section of a Goddard Bypass."

**KROUT** "That may be something that you would like to talk about because actually that is another area where the plan would need to be amended to show this Goddard Bypass. It was something that really came up after the local committee was done with their work. I assume that they wouldn't upgrade 54 through the middle of Goddard to a freeway if they are going to build one around it. They would just leave it the way it is today with a signal halfway."

**WARREN** "It would just be a public street and then the other would pick up 400?"

**KROUT** "Right. And I imagine that Goddard is concerned about having a freeway that would take some more businesses and disrupt businesses and cut their community in half and that is why they prefer the bypass."

When we were looking at east Kellogg, we looked for a while at a bypass of Kellogg by anywhere from a block to four blocks to the south. So I think KDOT will have to do some more planning and some more justification before this is really a done-deal."

**WARREN** "With our crying need for road dollars, it would seem that would not be a very good priority to put two right next to each other."

**MICHAELIS** "Here again, I think in order to summarize this, what we are asked to do here is to authorize staff to report our findings as well as the findings of the people in opposition and the people in favor to KDOT. If you have any specifics about this that you want to add, you could certainly do that in the form of a written deal to give to Marvin, and add that to it. But that is all we are being asked to do."

**BARFIELD** "I just want to ask if KDOT has done any studies to determine what percentage of the vehicles now would exit 54 to 254, both on the east and on the west?"

**MEHTA** "Not as part of this route number change, but they will include it as part of the study that they are now pursuing in which they define where it is going to be. They would want to know what proportion of traffic generally through the area is going to use the bypass. They did a little bit of that in the 2 or 3 year study and they will do more of that again."

**MCKAY** "I would like to make a statement before I make a motion. First of all, Don the answer to your question is no, I don't think the staff is in favor of this proposal. The indications I got were negative."

**ANDERSON** "Well, I would like to know."

**KROUT** "Well, Jamsheed and I have talked about this and we have also talked to the City Public Works Director, and we think it makes sense as the ultimate signing that it will be a simplification of signing for people who are travelers and visitors to the area. It will take some adjustments. There are very few businesses that are signed 54 that will be affected. I think, for instance the 54 Laundromat at Greenwich and 54 could probably find another name in the future. So we do think it makes good sense for the future to resign. Not now, but resign it when the northwest highway is built."

**MOTION:** That the Metropolitan Planning Organization endorse the proposed project.

**MCKAY** moved, **ANDERSON** seconded the motion.

**WARREN** "Is your motion, then, that this would not take place until completion of the 254 Bypass? Then at that time it be assigned 54?"

**MCKAY** "I think it is all one thing."

**MEHTA** "That is right."

**WARREN** "I took it that maybe they are wanting to drop signage now."

**MCKAY** "No. It says there 'as of the time that the Northwest Bypass is done'."

**WARREN** "Is that right?"

**MEHTA** "That is correct. Only when the new roadway and the new two bypasses are completed."

**MCKAY** "And even the bypass north of Goddard doesn't take effect until the west circumferential around Wichita is finished."

**MICHAELIS** "Okay. Any further discussion? Seeing none, we will vote."

**VOTE ON THE MOTION:** The motion carried unanimously (11-0).

5. Subdivision Committee items 5/2, 5/3, 5/4, and 5/5 were approved subject to the Subdivision Committee recommendations. **GAROFALO** moved, **COULTER** seconded the motion, and it carried unanimously (11-0).

5/2. **SUB2001-38** – Final Plat; Preliminary Plat of ECK 8<sup>TH</sup> ADDITION, located on the southeast corner of Arkansas and 53<sup>rd</sup> Street North.

- A. Municipal water services are available to serve the site. In accordance with the zone change, the extension of sanitary sewer is required for the site. The City Water and Sewer Department will not permit sewer service from Park City for this site. The Applicant shall guarantee the extension of sanitary sewer. In lieu of extension of sanitary sewer, the Applicant may install a temporary private system consisting of a grinder pump and private line connecting to the City sewer line. This system would be required to be replaced with City sewer when available to the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan indicates a need for off-site detention. An off-site easement for detention will be needed along with a drainage guarantee.
- D. County Engineering has noted that the current owner of the adjacent railroad is BNSF.
- E. Traffic Engineering needs to comment on the need for improvements to perimeter streets. No Improvements are required.
- F. The plat proposes two access openings along Arkansas and complete access control along 53rd St. North. In accordance with the Subdivision regulations, any access openings located within 250 feet of the intersection of Arkansas and 53rd St. North (measured from curb) are limited to right-turns only, and shall be referenced on the face of the plat; or a guarantee provided for the future construction of a raised medial.
- G. Traffic Engineering needs to comment on the need for additional right-of-way. The Subdivision Regulations require 75 feet of half-street right-of-way at arterial intersections. Traffic Engineering has required the right-of-way be increased to a 60-ft right-of-way with a corner clip.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay (referenced as P-O #85) and its special conditions for development on this property.

- J. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- K. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

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**5/3. SUB2001-67** – One-Step Final Plat of NORTHRIDGE PLAZA ADDITION, located on the northwest corner of 37<sup>th</sup> Street North and Ridge Road.

- A. The Applicant shall submit guarantees for the extension of City water and sanitary sewer.
- B. As the northern portion of this site is adjacent to Wichita's City limits, the Applicant shall submit a request for annexation. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A drainage guarantee is required. Minimum building pads need to be denoted for additional lots.
- E. City Engineering has recommended that the plat boundary be extended to the west to include the abutting floodway reserve. An administrative adjustment will also be needed.
- F. In accordance with the approved CUP, the plat proposes four openings along Ridge Road and three openings along 37th St. North. Distances should be shown for all segments of access control. In accordance with the Subdivision regulations, any access openings located within 250 feet of the intersection of 37th St. North and Ridge Road are limited to right-turns only, and shall be referenced on the face of the plat; or a guarantee provided for the future construction of a raised medial.
- G. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. This guarantee will be provided with the guarantee for the street improvements along 37th St. North.
- H. The joint access openings along Ridge Road and 37th St. North shall be established by separate instrument. Initial

construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.

- I. The 10-ft utility easement along the north property line shall be platted separately from the wall easement which is required by the CUP.
- J. In accordance with the CUP approval, a cross-lot circulation agreement is required to assure internal vehicular movement between the lots.
- K. A restrictive covenant will be submitted consenting to cross-circulation access between this site and the property to the north.
- L. Although currently zoned SF-20, Single-Family Residential, the property to the north has been approved for a zone change to NR, Neighborhood Retail per SCZ-0769 subject to platting. Due to this potential zone change, the east 336 feet of this subject plat may abut non-residential property, and a wall easement would subsequently not be required at this location. Therefore, it is recommended that a temporary wall easement shall be platted for the east 336 feet which is to be automatically vacated upon the rezoning to a non-residential district of the property to the north.
- M. Transportation improvements (including decel lanes, storage lanes, signalization) are required as approved per the CUP.
- N. The Applicant shall provide a guarantee for its portion of the paving of 37<sup>th</sup> St. North.
- O. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- P. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- Q. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- R. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Community Unit Plan and its special conditions for development on this property.
- S. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- T. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- U. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- V. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- W. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- X. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Y. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.



- Z. Perimeter closure computations shall be submitted with the final plat tracing.
- AA. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- BB. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE requests additional easements.
- CC. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

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**5/4.     D-1769** - Dedication of street right-of-way from Team Players, LLC, for property located on the north side of Kellogg, east of Rock Road.

OWNER/APPLICANT: Team Players, LLC, 128 S. Dellrose, Wichita, KS 67212

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. L/S-1018, and is being submitted to dedicate 10 feet of street right-of-way along Kellogg Drive.

Planning Staff recommends that the Dedication be accepted.

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**5/5.     D-1771** – Dedication of a Utility easement from Team Players, LLC, for property located on the north side of Kellogg, east of Rock Road.

OWNER/APPLICANT: Team Players, LLC, 128 S. Dellrose, Wichita, KS 67212

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. L/S-1018, and is being submitted to dedicate a 10-foot utility easement.

Planning Staff recommends that the Dedication be accepted.

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**5/1.     SUB2000-88** - Final Plat of RIO VISTA ESTATES FOURTH ADDITION, located on the northwest corner of 61<sup>st</sup> Street North and Meridian Avenue.

- A. As this site is adjacent to Wichita's City limits, the Applicant shall submit a request for annexation. Upon annexation, the property will be zoned SF-6, Single-Family Residential.
- B. The Applicant shall guarantee the extension of City water to serve the lots being platted.
- C. City Engineering needs to comment on the need for any guarantees or easements. No additional guarantees are required.
- D. City Engineering needs to indicate if petitions for future extensions of sewer services need to be provided. A petition for extension of sanitary sewer services is requested.
- E. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- F. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A drainage guarantee is required. Utility and drainage easements need to be labeled.
- G. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- H. The Applicant shall guarantee the paving of the proposed interior streets in addition to paved access of 61<sup>st</sup> St. North between the nearest paved segment and the entrance to the subdivision.
- I. City Fire Department needs to comment on the street names. The street names are acceptable.
- J. In accordance with County Engineering, the reserves may be dedicated to the public. Ownership and maintenance responsibilities shall be referenced in the plat's text."
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**NEIL STRAHL**, Planning staff "This is the Rio Vista Estates Fourth Addition. This plat was approved by the Subdivision Committee last month. It is located on the northwest corner of 61<sup>st</sup> Street North and Meridian Avenue. One of the conditions of the subdivision approval was that the applicant meet with County Engineering regarding the maintenance of the proposed floodway reserve. Maintenance of a reserve is typically handled by the plat's homeowner's association and a restrictive covenant would typically be filed.

In this case, County Engineering agreed that the reserve may be dedicated to the public with maintenance responsibilities going to the County and the Flood Control Authority, and that pertinent language could be referenced on the plat.

The other issue involves groundwater. The plat was approved by the Subdivision Committee with the Health Department requiring standard soil testing for septic systems and subsequent to the subdivision meeting we did receive a letter from the Equus Beds Groundwater Management District. They had concerns relative to potential contamination due to the wastewater from the site. They recommended septic systems not be used. Also, subsequent to the subdivision meeting, we did receive a comment from the Wichita Water and Sewer Department. They also recommended that septic systems not be used for the site. Last week the Development Coordination Committee also recommended to the Planning Commission that the developer tie into the city sewer.

The City would be participating in the cost of constructing a sewer main and a lift station that would need to be constructed to serve the property. The developer would submit a petition based on their share of the costs as determined by the Water and Sewer Department in addition to a separate petition for the internal laterals. The applicant has agreed to these conditions and the staff report will be revised to reflect these requirements. Are there any questions?"

**MICHAELIS** "Are there any questions of staff? Mr. Warren, would you care to make some initial comments, please?"

**DAVID WARREN** "I am the Director of the Wichita Water and Sewer utilities. I appreciate you allowing me to make a few comments. I think it is important for the Planning Commission to recognize that the Equus Beds Aquifer is one of the State of Kansas' most valuable and vulnerable water resources. More importantly, it represents one of the most significant water resources for the City of Wichita.

This water resource serves over half a million people in Kansas, the vast majority of which are right here in the Wichita area. We believe it is important that we be diligent and vigilant in protecting this groundwater resource as the city expands outward, particularly to the north and west into the Equus Beds area, we think it is important that we look very carefully at any development that occurs in the Equus Beds, and that great care be taken to protect the Equus Beds from any sort of contamination.

Again, we appreciate the support of the developer in recognizing the importance of the water resource and allowing us to work towards getting public sewer systems into this area. In all other areas, both inside Sedgwick County and even beyond where development is continuing to occur in these areas, we think it is real important that the City, the County and that these surrounding political jurisdictions support the protection of this important groundwater. Thank you."

**MCKAY** "Dave, two quick questions. No. 1, when you run the sewer main up there, are the people that live along there that are presently on septic tanks going to be required to join that sewer?"

**WARREN** "No, only if they elect to participate in the benefit district for the main extension at this time, they would have that opportunity. If they choose not to, then at such time in the future as they either are required or voluntarily connect with the city sewer system, then they would have to pay the fee in lieu of."

**MCKAY** "Is that line going to be large enough for the people to the east of there in that subdivision?"

**WARREN** "We will size the line large enough to serve a benefit district area that includes beyond just that one subdivision."

**MCKAY** "And on the pollution situation, that ground on both sides of the river is polluted pretty bad with past oil rigs."

**WARREN** "Yeah, and we don't want to contribute anything else to it, do we?"

**MICHAELIS** "Okay, thank you, Mr. Warren. Is the applicant here? Okay, is there anyone here wishing to speak on this item, either in favor or against? Seeing none, we will bring it back to the Commission."

**MOTION:** That the Planning Commission recommend to the governing body that the request be approved, subject to staff comments with the amendments.

**MCKAY** moved **JOHNSON** seconded the motion, and it carried unanimously (11-0).

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**JERRY MICHAELIS**, Acting Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning and vacation items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

I would like to remind the members of the Planning Commission that our bylaws require you to disclose any ex-parte contacts that you may have had regarding any of the applications on today's agenda. So I would ask you to please remember to disclose the nature of any such contacts you have had before we open the hearing on each case, and what if any impact that information may have on your opinion of the request.

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**6/1. VAC2001-00024** – Request to vacate Rutan Avenue and its right-of-way & Edgemont Avenue and its right-of-way

APPLICANT/OWNER: USD 259

AGENT: Baughman Company PA/Russ Ewy

**LEGAL DESCRIPTION:** The 60-ft utility – drainage easement as granted in Lot 6, Midtown 3<sup>rd</sup> Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located northwest of the Main St – N 9<sup>th</sup> St intersection, 1025 North Main St.

**REASON FOR REQUEST:** The applicant proposes expansion of Park Elementary School, USD 259.

**CURRENT ZONING:** Subject property is zoned B Multifamily. Property to the north is zoned B Multifamily and LI Light Industrial. Property to the east is zoned GO General Office, B Multifamily, LC Limited Commercial, and NR Neighborhood Retail. Property to the south is zoned LI Limited Industrial. Property to the west is zoned LI Limited Industrial.

The applicant is requesting consideration to vacate the 60-ft utility-drainage easement, as dedicated on Lot 6, Midtown 3<sup>rd</sup> Addition, approved by the WCC 10-05-1985. The applicant is proposing expansion of Park Elementary School, USD 259.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time June 28 2001, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described drainage-utility easement and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the drainage-utility easement as described in the petition should be approved subject to the following conditions:
1. Guarantee the abandonment of utilities in the easement.
  2. Guarantee the relocation of utilities in easement.
  3. Hold the currant easement as a temporary easement until utilities are relocated.
  4. Dedicate new easement.
  5. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
  6. All improvements shall be according to City Standards.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

1. Guarantee the abandonment of utilities in the easement.
2. Guarantee the relocation of utilities in easement.
3. Hold the currant easement as a temporary easement until utilities are relocated.
4. Dedicate new easement.
5. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
6. All improvements shall be according to City Standards

**BILL LONGNECKER** "There have been no changes on these two items since the Subdivision's recommendation on July 12. You can take them both in one motion. Are there any questions or comments from the staff or anybody from the audience?"

**MICHAELIS** "Are there any questions of staff? Can we hear from the applicant, please?"

**RUSS EWY** "I am with the Baughman Company, agent for the applicant. I will stand for any questions."

**MICHAELIS** "Are there any questions for the applicant? Thank you. Is there anyone in the audience wishing to speak on either of these two items? Seeing none, we will bring them back to the Commission."

**MOTION:** That the Planning Commission recommend to the governing body that the two requests be approved.

**GAROFALO** moved, **BLAKE** seconded the motion, and it carried unanimously (11-0).

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**6/4. VAC2001-00020** – Request to vacate a portion of a 30-foot side yard setback and a 16-foot utility easement.

The applicant is requesting consideration to vacate a portion of a 16-ft utility easement and a platted 30-ft setback. The applicant proposes to build a detached 30-ft x 32-ft garage with an 8-ft high garage door. The garage will allow easier covered access to the applicant's handicapped equipped vans. The applicant currently has two attached, connected double garages (approximately 40-ft x 24-ft, total size of the two put together) and an attached carport (24.6-ft x 21.1-ft). The applicant proposes using the current access off of Woodlawn that the existing attached, connected double garages are using. The proposed garage will encroach 30-ft into the platted 30-ft wide setback (this encroachment was reduced from 30-ft to 25-ft just prior to the 06-14-01 SD meeting) and take up 32-ft of the southern 37-ft of it. The proposed garage will also encroach 3-ft deep into the 8-ft (1/2 of the 16-ft easement) for 30-ft of its length. There is nothing unusual about the size or configuration of the lot; it is a typical lot for this addition and for this subdivision. The 30-ft street side setback appears to be consistent in this residential area along Woodlawn. There appears to be no other encroachments into this setback along Woodlawn in this area. The front of the house faces Peach Tree St and is oriented so the side yards are the east and west sides, with the south side being the rear yard. The OCI Director regards the front yard as the north side.

VAC2001-00020 was deferred (by mutual agreement between Staff and the applicant) for 2 weeks at the Subdivision Committee's May 31, 2001 meeting. VAC2001-00020 was considered by the Subdivision Committee at its June 14, 2001 meeting. Prior to the June 14 meeting the applicant modified his proposal by moving the garage 5-ft west and attaching it to the primary structure. The encroachment into the 30-ft setback would be 25-ft rather than the original 30-ft. The 3-ft encroachment into the utility easement would remain as in the original proposal. The revised legal description reflects this change and is noted in bold above. Subdivision recommended denial of the request at the June 14, 2001 meeting. VAC2001-00020 was deferred by the MAPC for 30 days at their June 21, 2001 meeting.

Based upon the information available prior to the public hearing, Staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
  - 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time May 17, 2001, which was at least 20 days prior to this public hearing.
  - 2. That private rights will be injured or endangered by the vacation of the above-described setback and utility easement, and the public will suffer loss or inconvenience thereby.
  - 3. In justice to the petitioner(s), the prayer of the petition ought to be denied.
- B. Therefore, the vacation of the setback and utility easement described in the petition should be denied due to the following reasons.

Staff's recommendation is for denial and proposes that the applicant move the proposed detached garage back out (going west) of the 30-ft street side (Woodlawn) setback and attach it to the existing garages. This would make the proposed garage part of the principle structure and trigger the reduction of the current SF-5 zoning 20-ft rear yard setback to 5-ft. The applicant's encroachment would then be only the 3-ft encroachment into the utility easement. Public Works recommends reducing the 32-ft length to 30-ft or 'spin' the proposed garage so the 32-ft side is out of the easement and in the backyard, both suggestions would eliminate the encroachment into the utility easement. Making the proposed garage part of the principle structure would restrict its height to 60% of the 35-ft maximum for SF-5 zoning; maximum height allowed would be 21-ft for the garage. These Staff recommendation's would preserve the current lack of encroachments along this section of Woodlawn Blvd and into the utility easement.

City Public Works recommends denial of the request to vacate the utility easement, due to the option of relocating the proposed garage in a way that would not encroach on either the easement or the set back. If the applicant is allowed to encroach into the utility easement they require a "Hold Harmless Agreement" and the applicant would be required move the existing manhole and extend the existing sewer line east into the Woodlawn ROW, to clear the proposed encroachment, at the applicant's expense and according to City Standards.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends denial due to the following reasons:

Subdivision concurs with Staff's recommendation for denial and its proposes that the applicant move the proposed detached garage back out (going west) of the 30-ft street side (Woodlawn) setback and attach it to the existing garages. This would make the proposed garage part of the principle structure and trigger the reduction of the current SF-5 zoning

20-ft rear yard setback to 5-ft. The applicant's encroachment would then be only the 3-ft encroachment into the utility easement. Public Works recommends reducing the 32-ft length to 30-ft ft or 'spin' the proposed garage so the 32-ft side is out of the easement and in the backyard, both suggestions would eliminate the encroachment into the utility easement. Making the proposed garage part of the principle structure would restrict its height to 60% of the 35-ft maximum for SF-5 zoning; maximum height allowed would be 21-ft for the garage. These Staff recommendations would preserve the current lack of encroachments along this section of Woodlawn Blvd and into the utility easement.

Subdivision concurs with City Public Works recommendation for denial of the request to vacate the utility easement, due to the option of relocating the proposed garage in a way that would not encroach on either the easement or the set back. If the applicant is allowed to encroach into the utility easement they require a "Hold Harmless Agreement" and the applicant would be required move the existing manhole and extend the existing sewer line east into the Woodlawn ROW, to clear the proposed encroachment, at the applicant's expense and according to City Standards.

**BILL LONGNECKER**, Planning staff, "This item is a request to vacate a portion of a 30-foot side yard setback and a 16-foot utility easement. Very briefly, there has been quite a few changes made because of the dialog between the staff and the applicant on this. A brief history is that Subdivision recommended denial of this request at the June 14, 2000 meeting, which was in its original form, which showed the applicant proposing to put a garage in the 30-foot setback and into a 16-foot utility easement. On the June 21<sup>st</sup> meeting of the MAPC, the applicant requested a 30-day deferral on this case to see if there could be some agreement reached between the applicant and staff.

Just prior to the meeting today, staff and the applicant reached an agreement on the request. Basically, this agreement is that the applicant has agreed to stay out of the 16-foot utility easement, also close the existing access to Woodlawn at the applicant's expense. Currently, there is, (indicating) approximately right here, a curb cut onto Woodlawn here. Again, the applicant has agreed to close this access at his expense and to give the City complete access control on Woodlawn, thus directing the applicant's traffic onto Peachtree, where the applicant has a circular drive, which swings through here and here (indicating) and also connects with the garages here.

The applicant has agreed to put the garage behind the tree line. That distance has not been determined yet. It will be worked out between now and City Council. Both the applicant and staff agree that the garage needs to be set far enough behind the tree line, which runs right along the applicant's property right in here and back. Put the garage far enough behind the tree line to ensure that the mature line of trees that is there are not disturbed or killed due to the construction of the garage. The applicant has agreed that the garage will compliment and use compatible materials and design to the existing houses and garage. The applicant has also suggested, if it would agree with the Planning Commission and staff to extend a solid screening anywhere in this area, again to be worked out between the staff with the Planning Commission's direction. Are there any questions?"

**MICHAELIS** "Are there any questions of staff?"

**WARREN** "This completely changes what the Subdivision Committee looked at. I guess I am not sure...you are talking about a tree line...are we talking about the vacation of a setback yet, and if so, how much?"

**LONGNECKER** "Right now, we are still looking at an encroachment into the setback. How big of an encroachment has not been determined yet. The applicant right now has a mature line of trees. They are evergreen and quite large. He has asked for, in consideration for shutting off the access control here on Woodlawn to still have an encroachment and a setback, but to have the garage moved behind that tree line. The distance has not been determined yet. Again, the applicant and staff are looking to make sure that those trees are not disturbed or damaged or ultimately killed by the construction of that garage.

The applicant has also indicated that if any trees are damaged or killed during the building of this garage that the applicant will replace those trees with trees that are like in size and type that are existing there now."

**WARREN** "I am interested in hearing from the applicant, but right off, I would want a better site plan to make a judgment than what I am looking at here now."

**LONGNECKER** "That could be done, sir. Maybe with a 2-week deferral, perhaps."

**KAPLAN** "I am at 430 North Market. I'm sorry, Ray, I couldn't hear your comment."

**WARREN** "One was that we are looking at a completely different picture here now than we were when we looked at this in Subdivision a month or so ago. Secondly, before I would want to make any decision one way or the other, I would want to see a site plan rather than just some rhetoric about where a tree line is and where this building may go in relation to that tree line."

**KAPLAN** "All right. That is fine. Do you want to defer it?"

**WARREN** "I think it ought to come back to the Subdivision Committee, quite honestly."

**KROUT** "Unless someone has some concern about the overall concept, just bring it to the site plan back to the Planning Commission."

**WARREN** "I do have concerns."

**KROUT** "Then you should make that motion."

**MICHAELIS** "Well, before we do that, is there anyone here in the audience that was here to speak on this item? Seeing none, we will bring it back to the Commission."

**WARREN:** Somehow I feel like everything has changed here and this is a pretty significant deviation from normal site plan layouts in that Woodlawn Street is a heavy traffic street. Based on the amount of changes that we have, I think it ought to be resubmitted with a better site plan and brought back to the Subdivision Committee."

**MOTION:** That the item be sent back to the Subdivision Committee with a new site plan, better identifying what they are now asking for."

**WARREN** moved, **COULTER** seconded the motion.

**MCKAY** "Can the applicant have that done by the next Subdivision meeting, which is next week so there is only a two week delay?"

**KAPLAN** "Yeah, I think we can. It is not a difficult drawing. Baughman has been doing the work on it. We already have an 'as built' survey to work off of, so I think that can be done. The only thing I would reiterate, I really felt very strongly that what we are doing is in the best interest of both parties, both the City of Wichita and the applicant. We were jointly hoping that you would accept it. I think I gave more than I got, quite frankly."

**MCKAY** "I am just saying that if you don't go to the normal publications and all of that...."

**KROUT** "There would be no re-advertising. If it is ready, it will be on the next subdivision agenda."

**MICHAELIS** "Is there any further discussion on the motion?"

**VOTE ON THE MOTION:** The motion carried unanimously with 11 votes in favor.

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#### **ZONING:**

**7a.** **Case No. ZON2001-00013** – Sally and Lowell Loesch (owner and applicant) request zone change from "SF-6" Single-family residential to "GO" General Office; and

**7b.** **Case No. CON2001-00021** – Sally and Lowell Loesch (owner and applicant) request Conditional Use to allow Animal Care, Limited, on property described as:

LOT 1, BLOCK 1, RAINBOW LAKES WEST SECOND ADDITION, SEDGWICK COUNTY, KANSAS, EXCEPT PART TAKEN FOR ROAD ON SOUTH. Generally located north of west Central, ¼ mile east of 135<sup>th</sup> Street West.

**DALE MILLER**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

The application area is a 1.5 acres platted lot located on the north side of west Central, ¼ mile east of 135<sup>th</sup> Street West. The owners are seeking a zone change from "SF-6" Single-family Residential to "GO" General Office with a Conditional Use to permit "animal care, limited" (small animal veterinary clinic). The site is currently developed with single-family residence with one point of access to Central Avenue. The applicant indicates he would like to convert his garage – approximately 800 square feet – to a small animal veterinary clinic. The garage is located on the east end of the residence. The application area is located next to an "S" curve in Central Avenue. There have been instances where vehicles have failed to negotiate the curve and have ended up on the applicant's property. The applicant indicates that on a typical day his current practice sees 10 – 20 clients a day. He also states he needs only a small sign less than 2 square feet. The only kennels he intends to have will be indoors. Hours of operation are to be 7:30 A.M. to 5:30 P.M. Monday thru Friday.

The applicant's site plan depicts a 4,000 square foot structure with access off Central and with parking located east of the house.

Land surrounding the application area is used either for single-family residential or is in agricultural use. All surrounding property is zoned "SF-6" Single-family Residential or "SF-20" Single-family Residential. There is a pond located west of the house that appears to be part of the Dry Creek drainage system. The closest of these residences is approximately 300 to 400 feet from the home on the application area.



The "Unified Zoning Code" first permits "animal care, limited" in the "GO" General Office district with a Conditional Use subject to the following conditions: No noise or odors shall be discernable at the property line; treatment is limited to dogs, cats and other small animals; and all animals are to be harbored indoors. Parking requirements for "animal care, limited" are 1 space per 250 square feet of space. If the applicant uses only 800 square feet, then 4 parking spaces will be required, one of which must be a handicapped stall. Should the existing home be converted to animal care use, then 16 spaces would be required. All parking and drives must be paved with asphalt, asphaltic concrete or concrete. (A more detailed parking plan will have to be submitted and approved by the Zoning Administrator, per Article IV -A 13. Parking lot lighting and screening will also have to comply with code requirements, per Article IV -B.) If this request is approved, the applicant will also need to comply with landscape ordinance requirements.

The Sign Code permits 32 square feet of signage in the "GO" district.

**CASE HISTORY:** Rainbow Lakes West Second Addition was platted in December 1977. The site was annexed in 1998 and zoned "SF-6" Single-family Residential at that time.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-20" Single-family Residential; agricultural  
SOUTH: "SF-6" Single-family Residential; single-family residences  
EAST: "SF-6" Single-family Residential; single-family residences  
WEST: "SF-6" Single-family Residential; single-family residences

**PUBLIC SERVICES:** The lot has platted access control allowing only one opening along Central. Traffic counts are not available at this location. Central is scheduled in the City's CIP to be improved to a four-lane urban arterial in 2008. Neither municipal sanitary sewer or water serve this site today. Water is scheduled to be available in 2006.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide" depicts this site as appropriate for "low density residential" uses that provide for the lowest density of urban residential land use plus schools, churches and other similar uses. "Office Location Guidelines" contained in the "Comprehensive Plan" state that office uses should: generally be located adjacent to arterial streets; local, service-oriented offices should be incorporated within or adjacent to neighborhood and community scale commercial development and low-density office use can serve as a transitional land use between residential uses and higher intensity uses.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED, however if the Commission feels this request is appropriate, the Conditional Use shall be subject to the following conditions:

- A. The site shall be developed and maintained in conformance with a revised site plan approved by the Planning Director, and in conformance with Supplementary Use Regulations found in Article III-D 6 c of the Unified Zoning Code. As part of the site plan review, the applicant may be asked to move the location of the drive to a different location that would function better with respect to the "S" curve in Central.
- B. Uses permitted on the site shall be limited to "animal care, limited" and those uses permitted in the "SF-6" Single-family Residential district. The "animal care, limited" use shall be limited to a maximum size of 1,000 square feet of area.
- C. All applicable permits, including but not limited to those dealing with health, building and zoning, shall be obtained before the use can begin operation.
- D. Signage shall be limited to a maximum size of 6 square feet which is not to be illuminated.
- E. A landscape plan shall be submitted and approved by the Planning Director prior to beginning clinic activities.
- F. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. Land surrounding the application area is used either for single-family residences or is in agricultural use. All surrounding property is zoned "SF-6" Single-family Residential or "SF-20" Single-family Residential. The character of the area is large-lot residential and agricultural.
2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "SF-6" Single-family Residential which permits single-family residences, churches and schools. The site is developed with a single-family residence that is occupied, appears to be well cared for, and appears to have maintained its value as a residence. The site is suitable for the uses for which it has been restricted.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will introduce a zoning district and a use that is not currently present in the general area and is not in character with existing nearby uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The "Wichita Land Use Guide" depicts this site as appropriate for "low density residential" uses that provide for the lowest density of urban residential land use plus schools, churches and other similar uses. "Office Location Guidelines"

contained in the "Comprehensive Plan" state that office uses should: generally be located adjacent to arterial streets; local, service-oriented offices should be incorporated within or adjacent to neighborhood and community scale commercial development and low-density office use can serve as a transitional land use between residential uses and higher intensity uses. This application is not consistent with plan recommendations for office uses since this location is surrounded by residential or agricultural uses and is located at mid-mile.

5. Impact of the proposed development on community facilities: Because of the relationship between the curve of Central and this site, traffic should be minimized at this location to avoid further potential for accidents. The proposed use limited to the garage conversion will increase the daily trips from 10 to 20 to 30. If the residence is remodeled or redeveloped to 4,000 square feet of office use, it would generate 50 to 80 daily trips.

**MILLER** "This is a request that was originally presented to you back in April. The original request was for 'GO' General Office zoning, plus a Conditional Use to permit Animal Care, Limited for a small animal veterinary clinic. At the time that that went through, both the DAB and the Planning Commission recommended denial. It went to the City Council and they have sent it back for further consideration. As part of sending it back, the applicant has indicated that instead of asking for the original request of 'GO' plus the Conditional Use for the animal care, he would drop the request down to 'NO' Neighborhood Office.

So basically the site is the same—is located there on West Central, kind of on the 'S' curve, if you will, between 135<sup>th</sup> Street West and 119<sup>th</sup> over here. The application area is a site that is already developed and you can see the Rainbow Lakes neighborhood around it to the south primarily. There are homes to the west, one to the east; it is mostly agricultural ground to the north. Part of the problem that the applicant has indicated that he has had is that he has tried to sell this home over the past few years for a residence and he indicates that he has had trouble because this 'S' curve. Apparently, on three different occasions people have left the road and have either ended up in his yard, into his garage, and I think there was even a fatality that was perhaps behind the house at one point. He can fill you in on those details if you need additional information on the accidents. At any rate, he says because of those accidents he has not been able to sell this for a residence and that is why he is seeking the increased zoning on it.

In the original request, we recommended denial because of the location. As you can see, this particular site is pretty much located mid-mile, and you have residences all the way around. This corner (indicating on slide) does have a commercial CUP on it, and this corner has been approved for Neighborhood Office although it has not been perfected. They have a platting extension. Pretty much everything else out there is residential use and we just feel like even 'NO' is not consistent with the plan guidelines for the location of 'NO' uses. There is a memo attached to the staff report that explains the difference between 'GO' and 'NO'. I won't go into that unless you have specific questions.

We did go back out to the DAB a week ago Monday and on the third motion, they finally got one that was approved. They are basically asking Traffic Engineering to take a look at this 'S' curve again and see if there isn't some way to build something so that it will make this house safe and keep people from leaving the road and make the property usable for residential purposes. They had a motion to deny which failed on a 2-6-1 vote. They had a motion to approve, which failed on a 4-4-1 vote, and then they ended up with this last recommendation. That is kind of where we are. I believe the applicant is here and could answer more questions if you need more information from him."

**MICHAELIS** "Are there any further questions of staff?"

**BARFIELD** "Is this type of business suited for the 'NO' designation?"

**MILLER** "He could not do the animal care with 'NO'. That is not permitted."

**GAROFALO** "That answered one of my questions, but the other one is what use are they talking about?"

**MILLER** "Based on what he said at the DAB meeting, I think he is looking at just any kind of small office use. Under 'NO', you are restricted to 8,000 square feet as the largest any single user could be. I think, based on his testimony there, he has found another residence that he is intending to move into and is just trying to find some zoning that would work. In his mind, this can't be used as a residence, so he is trying to find some other use that is available."

**MICHAELIS** "Are there any further questions of staff? Could we hear from the applicant, please?"

**STEVE LOESCH** "I have resided at the questioned property there for 18 years; built the house there when it was a vacant lot and Central wasn't paved. There are 14 different properties within the 200 feet that are required to be notified of a zoning change. Of those 14 properties, I was able to contact 13 of the property owners and of those 13, 11 of them signed a petition for me saying that they would not oppose the zoning change, otherwise saying that they were in favor of it. Of the other two, one of them said that they wouldn't oppose it, but didn't want to sign the petition for whatever reason—that is the fellow right across the lake. The other one is one where the owner doesn't live there, they just own property that is not developed. They live up in northeast Wichita, and she said she was against it. But the 11 of the 13 that I was able to contact said that they would support me in the zoning change.

As far as what I am looking for is to convert this into an office, but I have been told by realtors that a real estate office, an insurance office and that sort of thing is what would go in there. My house is built on a slab, it is 2,700 square feet. It is designed in such a way that the bedrooms are all located on a long hallway, which realtors say is a ideal to convert into an

office. They don't think it would take a lot to convert it. It is a pretty nice house, not one that they would have to tear down and build another property, or anything like that. They could just make minor changes to the outside and minor changes on the inside, get rid of kitchens and sort of thing or laundry rooms that aren't needed, and then it would be fairly simple to convert it into an office where you use two or three different rooms for offices and have a reception area."

**MICHAELIS** "Are there any questions of the applicant?"

**WARREN** "Again, this is a brand-new twist to this case that we heard some time ago, but have you developed a site plan that would show, assuming you would have two or three offices there, how you would park, what you would maybe blacktop and so on?"

**LOESCH** "Okay, City zoning requires certain things to be done, to answer your question, depending upon how many square feet is used for offices. I have no idea how it would be used, so no, I haven't done any of that. My assumption, from what I have been told, is that somebody like a real estate office would buy it. It would be one business and they would have different offices within that—cubicles, rooms, or whatever for different staff members and that sort of thing. Not that you would operate three different independent offices out of there. It would be one office with 4 to 5 people employed—that type of thing. That was my understanding."

**WARREN** "It is not your intent, then, to retain ownership and lease it as a neighborhood office?"

**LOESCH** "Not at all. I am not in that sort of business."

**JOHNSON** "To carry that a step farther, then, are you just looking for the 'NO' and not the animal care?"

**LOESCH** "That is correct. There is a misprint in there, I think on that deal. It says I am still asking for General Office, which I am not at all. Under General Office, to have an animal clinic, you are required to have the Conditional Use and under Neighborhood Office, even with a Conditional Use, you couldn't have it."

**MICHAELIS** "Are there any further questions of the applicant? Thank you, sir. Is there anyone here in the audience wishing to speak on this item? If not, I will bring it back to the Commission."

**BARFIELD** "Now I have a question of Marvin. Two weeks ago, Marvin, we had, after the meeting, a discussion about the importance of the DAB vote. Here again today, we are hearing about the DAB vote. In this particular case, the DAB took three votes. I want clarification as to whether or not we are to consider DAB votes or if that is clearly intended as a recommendation to the City Council?"

**KROUT** "I heard one of the Commissioners say at that last meeting, that the purpose of the DAB was to give advice to the City Council, and that is true, but when it was set up, like the CPO, it was also set up to have input to the MAPC. One of the reasons is that you normally will find more people from the neighborhood coming to a DAB meeting because it is at a more convenient place and time than the Planning Commission meeting on Thursday afternoon. So it is a part of what you consider is whether or not there is neighborhood support or opposition, and plus the DAB members themselves represent the area of the city that is most affected by the proposal. So my opinion is, and the way that planning commissioners previously have approached it and spoken to the CPO about it, is that the DAB and the CPO meetings, when it comes before the Planning Commission meeting, it is a part of what you consider when you are making your decision.

Unfortunately, we can't get the District Advisory Boards to meet twice a month, so that means that sometimes the DABs are going to meet after and you won't have their input, but I would urge the Planning Commission to consider the input of the DABs, and I think that is the intention of the City Council, for you to consider it also."

**WARREN** "I know that the record will show that when we voted on this issue last time, of course it was what I considered to be a home occupation, and I was the lone vote in favor of it. So I will speak to it now. At that time, I thought it was a reasonable request because I thought it was a reasonable home occupation and all I was looking for was some way of giving zoning with a Protective Overlay to allow him to do that one single thing. That not being the case any more, where he is asking for kind of a carte blanche zoning, even 'NO' zoning, I would prefer to tie that 'NO' zoning to a site plan, which we do quite often. I think it would make a lot of difference if we had a site plan before us to show how everything was going to lay out and how it was compatible with the rest of that neighborhood, than I do just saying it is going to be 'NO'."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood). Land surrounding the application area is used either for single-family residences or is in agricultural use. All surrounding property is zoned "SF-6" Single-family Residential or "SF-20" Single-family Residential. The character of the area is large-lot residential and agricultural. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "SF-6" Single-family Residential which permits single-family residences, churches and schools. The site is developed with a single-family residence that is occupied, appears to be well cared for, and appears to have maintained its value as a residence. The site is suitable for the uses for which it has been restricted. Extent to which removal of the restrictions will detrimentally affect

nearby property: Approval of the request will introduce a zoning district and a use that is not currently present in the general area and is not in character with existing nearby uses. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The "Wichita Land Use Guide" depicts this site as appropriate for "low density residential" uses that provide for the lowest density of urban residential land use plus schools, churches and other similar uses. "Office Location Guidelines" contained in the "Comprehensive Plan" state that office uses should: generally be located adjacent to arterial streets; local, service-oriented offices should be incorporated within or adjacent to neighborhood and community scale commercial development and low-density office use can serve as a transitional land use between residential uses and higher intensity uses. This application is not consistent with plan recommendations for office uses since this location is surrounded by residential or agricultural uses and is located at mid-mile. Impact of the proposed development on community facilities: Because of the relationship between the curve of Central and this site, traffic should be minimized at this location to avoid further potential for accidents. The proposed use limited to the garage conversion will increase the daily trips from 10 to 20 to 30. If the residence is remodeled or redeveloped to 4,000 square feet of office use, it would generate 50 to 80 daily trips.) I move that we recommend to the governing body that the request be denied.

**WARREN** moved, **MARNELL** seconded the motion.

**HENTZEN** "I kind of accept the fact that this is not a very good location for a residence because he has been hit about three times that I know of after we paved Central and all of that development went out there, those cars ended up in his garage end of the house. What I am saying is that since the use of this land as residential is minimal, I think he is asking us to put a 'NO' Neighborhood Office on it, just to make it attractive enough to sell, to get rid of it. I think it is a reasonable request. I understand that what he started out to do was to have a veterinary office, but I think this is a reasonable request because it is not a very prime location for residential. I am saying that what makes office more attractive is that at least they are not going to be there all night. I think it is a reasonable request and I am going to vote against the motion."

**MARNELL** "I am going to support the motion to deny. I did the last time, as well—voted against the approval of this. That is a residential area and this would be putting a business smack in the middle of a neighborhood."

There is a home that I see often at the end of First Street at the end of Edgemoor out east and I don't think anyone would look favorably at converting that to a business just because it is at the end of a street and has been hit by cars. I know that they put a barrier up there but it just seems that is almost a repeat of running a business out of a neighborhood that we had a couple of weeks ago, and I don't think we are being consistent."

**WARREN** "I agree with what Commissioner Hentzen is saying, I think maybe there is some business that could go in there, but it is not unusual to sell a piece of property and that sale would be contingent upon the buyer getting it rezoned for Neighborhood Office. I think if a buyer came in here with a site plan and a purpose of what he wanted to do, I think he has a darn good chance of getting 'NO' zoning on it. That is what I would like to see as a condition of the 'NO' to take a look at what he is going to do with it, rather than to carte blanche give it an 'NO'."

**MICHAELIS** "Is there any further discussion? Seeing none, we will vote on the motion."

**VOTE ON THE MOTION:** The motion carried with 8 votes in favor (Barfield, Johnson, Michaelis, Warren, Marnell, Coulter, Anderson, and Garofalo) and 3 in opposition (McKay, Hentzen and Blake). Warner, Wells and Bishop were not present.

**WARREN** "I would like for the record to show that I didn't vote to deny this totally, I voted to deny it until we can see a site plan."

**MICHAELIS** "I don't see what difference that would make."

**WARREN** "Well, it does make a difference. I think, down the line, that it will, and we see it all of the time."

8. **Case No. CUP2001-00017 DP-222** – Reed Commercial CUP – Request to amend the Reed Commercial Community Unit Plan to increase the overall size of the CUP and increase pad sizes, described as:

The North 900 feet of the West 1100 feet of the Northwest Quarter of Section 11, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas. Generally located on the southeast corner of 21<sup>st</sup> Street North and 127<sup>th</sup> Street East.

**DALE MILLER**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

In June 1996, the applicant was granted approval for both a zone change from SF-20, Single-family Residential to "LC" Limited Commercial and DP-222 (Reed Commercial Community Unit Plan) for a tract of land located at the southeast corner of 21st Street North and 127th Street East. The zone change request was approved subject to platting within two years. A preliminary plat was submitted for review and received approval from the Subdivision Committee. However, it was discovered that the legal description for the CUP was smaller in size (15.98 acres) than the acreage that had been approved for "LC" zoning (17 acres). By 1999, the applicant had obtained a platting extension and submitted a revised CUP with boundaries that would match the acreage approved for "LC" zoning. The MA PC granted an indefinite deferral in January 2000.

The applicant now proposes to complete the revisions previously proposed by increasing the CUP's overall size to 17 acres to match the size of zoning. The number of parcels will remain the same (5), but each parcel size will increase. Parcel sizes range from 1.09 acres to 12.84 acres. The general provisions of the new CUP are the same as the old CUP, except for modifications related to parcel size (e.g. building coverage, gross area, floor area ratio and gross floor area). Individual parcel restrictions concerning permitted uses and number of buildings remain the same as the original CUP (permitted uses are those allowed in the "LC" Limited Commercial district, except nightclubs). Maximum gross floor area will increase from 208,782 to 227,059 square feet, an increase of 18,277 square feet.

In the past 5 years, MAPD staff and city and county engineering staff have become more conscious of the need for better access management for new developments, to protect the safety and capacity of the arterial road system. New CUP's and plats are being approved with fewer, more carefully identified access drives.

The current CUP permits three drive openings along 127th Street and four openings along 21st Street. It is recommended that Access Control, Item 18 A. be amended to read: "Access to 21<sup>st</sup> Street shall be limited to 3 openings: One opening in the easternmost 85 feet of Parcel 3 is permitted that is restricted to right-in/right-out turns with a guarantee to provide for the construction of a raised median when required by the traffic engineer, one major opening located 420 feet east of the centerline of 127th Street and a third opening located on the common boundary line between Parcels 4 and 5. Cross lot access shall be guaranteed between all parcels." (The location for the major opening would match the major opening previously approved for the Twentyfirst Commercial CUP located on the northeast corner of this intersection.) Item 18 B. should be amended to read: "Access to 127th Street shall be limited to: one major opening along Parcel 1, one joint opening between Parcels 2 and 3 and an opening adjacent to the south property line that is restricted to use by service vehicles only." Item 12 should be amended: "The applicant shall guarantee at the time of platting a left turn lane in 127<sup>th</sup> Street East for the major opening, a left turn lane on 21<sup>st</sup> Street and 127<sup>th</sup> Street to the major openings, and a continuous right turn decel lane on 21<sup>st</sup> Street. The applicant shall also provide cross-lot access to the properties located to the south and east if they develop with non-residential uses.

Surrounding land is zoned "SF-6" Single-family Residential, "SF-20" Single-family Residential or "LC" Limited Commercial. Land to the northwest is being developed with a church. Property to the north has received MAPC approval for a commercial CUP (but the plat has not been finalized). Land to the east and south is undeveloped farm ground. Land to the west is currently in large-lot residential usage.

**CASE HISTORY:** "LC" Limited Commercial zoning (SCZ-0712) and the Reed Commercial CUP DP-222 were approved in 1996, subject to platting within two years. In December 1999, the Subdivision Committee approved a preliminary plat (Reed Commercial Addition). In January 2000, MAPC granted an indefinite deferral to a proposed amendment to the CUP.

#### **ADJACENT ZONING AND LAND USE:**

NORTH: "LC" Limited Commercial; vacant  
SOUTH: "SF-20" Single-family Residential; vacant  
EAST: "SF-20" Single-family Residential; vacant  
WEST: "SF-6" Single-family Residential; residences

**PUBLIC SERVICES:** Municipal water and sewer services are either available or are available for extension. The City's CIP indicates northeast sewer improvements are scheduled for 2001. 21<sup>st</sup> Street is shown on the 2030 Transportation Plan as a 5-lane arterial. 21<sup>st</sup> Street is currently a two-lane arterial. 127<sup>th</sup> Street is shown as a 2-lane arterial, and is currently a township maintained two-lane roadway. Traffic counts are not available.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide" indicates this site is appropriate for "commercial" uses. Neighborhood centers typically range in size from 4-15 acres and may be anchored by a supermarket with a variety of other tenants containing up to 200,000 square feet of floor area. These centers are permitted at one or two corners of arterial intersections.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

G. Item 18 A. Regarding access to 21st Street: "Access to 21<sup>st</sup> Street shall be limited to 3 openings: one opening in

the easternmost 85 feet of Parcel 3 restricted to right-in/right-out with a guarantee to provide for the construction of a raised median subject to the traffic engineer, one major opening may be located 420 feet east of the centerline of 127th Street and third opening located on the common boundary line between Parcels 4 and 5. Cross lot access shall be guaranteed between all parcels in the CUP and to the properties to the south and east if they develop non-residentially."

- H. Item 18 B. should be amended to read: "Access to 127th Street shall be limited to one major opening along Parcel 1 and a joint opening between Parcels 2 and 3 and an opening adjacent to the south property line that is be restricted to use by service vehicles only."
- I. Item 12 should be amended: "The applicant shall guarantee at the time of platting a left turn lane in 127<sup>th</sup> Street East for the major opening, a left turn lane on 21<sup>st</sup> Street to the major openings, and a continuous right turn decel lane on 21<sup>st</sup> Street.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood. Surrounding land is zoned "SF-6" Single-family Residential, "SF-20" Single-family Residential or "LC" Limited Commercial. Land to the northwest is being developed with a church. Property to the north has received MAPC approval for a commercial CUP (but the plat has not been finalized). Land to the east and south is undeveloped farm ground. Land to the west is currently in large-lot residential usage.
- 2. The suitability of the subject property for the uses to which it has been restricted. The site is currently zoned "SF-20" but has been approved for "LC" Limited Commercial subject to a CUP. The site could be used for residential purposes, however residential uses at the corner of two arterials is not the community's typical development pattern. "LC" zoning is more typically seen at these locations
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Traffic and the intensity of uses will increase. However the properties to the north have been approved for similar type developments. The use restrictions and screening requirements will mitigate any detrimental affects.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The "Wichita Land Use Guide" indicates this site is appropriate for "commercial" uses.
- 5. Impact of the proposed development on community facilities: Increased public services will be required, however the provision of those services has been anticipated and improvement projects have been completed or are scheduled.

**MILLER** "This is a request that the Commission heard back in June of 1996. It was originally approved in this configuration with these parcels (indicating), but when they went through the platting process, what they discovered was that the legal description for the platted property was approximately an acre shy of what had actually been approved for the 'LC' zoning. So, in effect, what they are doing with this application is basically clearing that up. (Indicating) this line is dropping down a little ways to take care of that acre discrepancy between the zoning and what they had originally platted. Some of the lots are becoming a little larger, but in effect, it is the same CUP as what was originally approved. It is just the size that is changing somewhat.

Staff is recommending approval; however since this report was mailed out, we have had numerous discussions regarding access control. What we have ended up with is something that is a little bit different than what is in the staff report. What we are recommending on 21<sup>st</sup> Street is that there be one access point to Parcel 3; one to Parcel 1, and 1 that be a joint access here (indicating). I believe originally, when the original CUP was approved back in 1996, there were 4 access points granted along 21<sup>st</sup>; so we are down to three on this one. I believe the applicant is in agreement with that.

Along 127<sup>th</sup> Street, we are agreeing to (indicating) one here; one here; and then the most recent situation is one here. What they were seeking is a service entrance. They were wanting an entrance so that vehicles that are going to serve the businesses that would be located here could come in here and I guess serve the rear of the lots. I don't know exactly how this is designed to be laid out, but staff's original concern was, as you are aware under the proposed Access Management Guidelines, we are trying to minimize the number of accesses to arterial streets. We had originally wanted to try and get this down to two, and agreed to recommend the third one if they designed this such that it is obvious to people who would be trying to use this center, that this really is a service area and not another access point where you pull in here and then circulate through the rest of it.

One way would be, depending on how they build the buildings, they could do that. Another possibility would be to put landscaping in some portion in here so that there isn't a connection between this drive and the rest of the circulation area up here. There are probably other ways to do it, but those are the main points that we have agreed to. With that, we are recommending approval, and I will try to answer any questions."

**GAROFALO** "Dale, how does this new proposal on the accesses differ from—does it differ much from what you had in the report? The report indicates three accesses on 21, doesn't it?"

**MILLER** "It says only two. It is in two different places."

**GAROFALO** "It says one access point to Parcel 3, restricted to right/in and right/out turns only. Then we with guarantee to provide one major opening to Parcel 1 and one opening is permitted on the common boundary between Parcel 4 and Parcel 5."

**MILLER** "That part we had nailed down when we mailed this. It is only this last part here that is different. The third access on 127<sup>th</sup> Street."

**GAROFALO** "We are allowing that?"

**MILLER** "There would be three on both streets as opposed to three and two—that is what is in the staff report."

**GAROFALO** "But on 21<sup>st</sup> Street would be right/in right/out turns still be required?"

**MILLER** "The one to No. 3, because it is so close to the intersection would be a right/in right/out. They would be required to guarantee a median to enforce that, but it would be subject to triggering by the Traffic Engineer when the traffic gets to a volume where he thinks that is appropriate. The way it is today, he doesn't think that is probably warranted, but as traffic volume increases on 21<sup>st</sup>, then it would be more critical to have that. So they would guarantee it, but it wouldn't be triggered until the traffic engineer felt that that was appropriate."

(Indicating) there is a major entrance here, and what we tried to do is to the property to the north has already been approved for a Commercial Community Unit Plan, and what we are trying to do is match up these entrances as best we could so that they complimented each other."

**GAROFALO** "So is that one opening for Nos. 4 and 5 going to stand?"

**MILLER** "Yes. (indicating) No. 4 is here, and No. 5 is there, and the opening there, we are in agreement with that."

**MICHAELIS** "Are there any further questions of staff? Thank you, Mr. Miller. May we hear from the applicant, please?"

**GREG ALLISON** "I am with MKEC, representing the applicant. We are in agreement with staff comments. I would like to point out that the purpose of this CUP, as Dale alluded to, is that we have expanded the site a little bit and increased the size of the pad lots. That is one of the reasons why we instigated it as well. I would be happy to answer any questions on the service road. We feel that on the service road we can control that by our architectural and signage-type uses as far as control, so we would propose to limit it simply by that."

As Dale pointed out, we originally had three access points on 21<sup>st</sup> Street and we have changed that down to three based on staff and us agreeing to that. On 127<sup>th</sup> Street we originally had three and with the service road we feel that we can maintain that as the three but simply limit the service road by architectural design of the site and then signage. I would be happy to answer any questions you might have."

**MICHAELIS** "Are there any questions of the applicant?"

**KROUT** "Are you agreeable to the idea of providing cross-lot access to any future development to the east or the south that may occur that may be non-residential?"

**ALLISON** "Is it is non-residential to the south and to the east, I don't think that would be a problem. That would be just some kind of access agreement. We can provide that."

**KROUT** "That would be our recommendation, to add that."

**MICHAELIS** "Are there any further questions of Mr. Allison? Thank you, sir. Is there anyone else in the audience wishing to speak either in favor of or in opposition to this item? Seeing none, I will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood). Surrounding land is zoned "SF-6" Single-family Residential, "SF-20" Single-family Residential or "LC" Limited Commercial. Land to the northwest is being developed with a church. Property to the north has received MAPC approval for a commercial CUP (but the plat has not been finalized). Land to the east and south is undeveloped farm ground. Land to the west is currently in large-lot residential usage. The suitability of the subject property for the uses to which it has been restricted. The site is currently zoned "SF-20" but has been approved for "LC" Limited Commercial subject to a CUP. The site could be used for residential purposes, however residential uses at the corner of two arterials is not the community's typical development pattern. "LC" zoning is more typically seen at these locations. Extent to which removal of the restrictions will detrimentally affect nearby property: Traffic and the intensity of uses will increase. However the properties to the north have been approved for similar type developments. The use restrictions and screening requirements will mitigate any detrimental affects. Conformance of the requested change to the

adopted or recognized Comprehensive Plan: The "Wichita Land Use Guide" indicates this site is appropriate for "commercial" uses. Impact of the proposed development on community facilities: Increased public services will be required, however the provision of those services has been anticipated and improvement projects have been completed or are scheduled.) I move that we recommend to the governing body that the request be approved, subject to the following:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The monopole shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- E. A landscape plan shall be submitted for approval by the Planning Director that provides 6-foot high Southwestern White Pines to be planted in accordance with the site plan submitted with the application for the Conditional Use.
- F. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- G. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- H. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- I. Any violation of the conditions of approval shall render the Conditional Use null and void.

**HENTZEN** moved, **BLAKE** seconded the motion, and it carried unanimously (11-0).

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Dorman Blake left the meeting at 2:30 p.m.

9. **Case No. ZON2001-00038** – Wesley Medical Center, LLC, c/o David S. Nevill (owner/applicant); Baughman Company PA c/o Russ Ewy (Agent), request zone change from "GO" General Office to "LC" Limited Commercial with a Protective Overlay to limit uses to those permitted by the "GO" General Office district plus hotel or motel, on property described as:

Lots 3, Wesley Medical Center Second Addition, Wichita, Kansas, Sedgwick County, Kansas. Generally located on the southeast corner of Edgemont and Rutan.

**SCOTT KNEBEL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

The applicant is requesting a zone change from "GO" General Office to "LC" Limited Commercial on a platted 0.76 acre tract located at the southeast corner of Edgemont and Rutan. The applicant also is requesting a Protective Overlay to limit uses on the subject property to those permitted by the "GO" General Office district plus hotel or motel.

The applicant indicates that Wesley Medical Center that is located west of the subject property will be expanded and that the expansion will occur on the site of the existing Wesley Motor Hotel, which is located at the northwest corner of Central and Rutan. Therefore, the applicant is seeking to relocate the Wesley Motor Hotel to the subject property.

The Unified Zoning Code limits a hotel or motel on properties in the "GO" General Office district to sites along a street that is classified as an arterial street or higher classification. Since the subject property is not along an arterial street, the applicant is requesting "LC" Limited Commercial zoning, which permits a hotel or motel by right.

The attached site plan shows an 89 room hotel located in the northwest corner of the subject property. As shown, the hotel could not be constructed simply with the granting of "LC" Limited Commercial zoning. Much of the parking shown for the hotel is located off-site or in the street right-of-way for Edgemont. An off-site parking agreement will be needed for parking to be located in Sleepy Hollow Park. Since Sleepy Hollow Park is zoned "TF-3" Two-Family Residential, a Conditional Use will be required to permit an ancillary parking area. The applicant has submitted a request to vacate the street right-of-way for Edgemont, which would make the parking shown along the south side of Edgemont on-site. A Zoning Adjustment will be required to reduce the hotel's total parking requirement. Under recently adopted provisions of the Unified Zoning Code, parking requirements can be reduced by up to 25% with administrative approval for all redevelopment of existing sites with new construction.

As shown, the hotel building encroaches into 20 foot platted building setbacks along the north and west property lines. These building setbacks will need to be vacated. Alternatively, the City Law Department indicates that when the vacation



of the street rights-of-way is considered a finding can be made that determines that the vacation of the street rights-of-way moves the setback lines accordingly with the property line.

The site plan shows a private drive covered with a canopy that is partially located within the street right-of-way for Rutan. The applicant has submitted a request to vacate the street right-of-way for Rutan, which would then allow the private drive and canopy in the locations shown.

The character of the surrounding area is dominated by the Wesley Medical Center. The property north of the site is zoned "TF-3" Two-Family Residential and is Sleepy Hollow Park. The property east of the site is zoned "GO" General Office and is a parking lot for an office building. Further to the east across Vassar on property zoned "TF-3" Two-Family Residential are single-family residences. The properties south of the site are zoned "B" Multi-Family and "GO" General Office and are developed with apartments, a medical research office, and a Ronald McDonald House. The properties east of the site are zoned "GO" General Office and "LC" Limited Commercial and are developed with the Wesley Medical Center and the existing Wesley Motor Hotel.

**CASE HISTORY:** A Use Exception (BZA 24-65) was granted July 27, 1965 to permit an ancillary parking area in a residential district. The zoning of the eastern portion of subject property was changed (Z-1286) from "TF-3" Two-Family Residential to "BB" Office (now "GO" General Office) on June 11, 1971. The property was replatted as Wesley Medical Center 2<sup>nd</sup> Addition on August 7, 1975. The zoning of the western portion of subject property was changed (Z-1964) from "TF-3" Two-Family Residential to "BB" Office (now "GO" General Office) on November 9, 1977. A Variance (BZA 15-83) was granted April 26, 1983 to permit the maximum building height to be increased at the setback line to 80 feet.

#### **ADJACENT ZONING AND LAND USE:**

NORTH:	"TF-3"	Sleepy Hollow Park
SOUTH:	"B" & "GO"	Apartments, medical research office, Ronald McDonald House
EAST:	"GO" & "TF-3"	Parking lot, single-family residences
WEST:	"GO" & "LC"	Wesley Medical Center, Wesley Motor Hotel

**PUBLIC SERVICES:** The site has access to both Edgemont and Rutan, which are both local streets. The applicant has requested to vacate both streets, which would then become private drives or parking areas. If the streets are vacated, access to the site will be via private drive to Central, a five lane arterial, or Vassar, a local street. Municipal water and sewer currently serves the site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Public/Institutional" uses. The Comprehensive Plan indicates that "Institutional" uses include churches, hospitals, private schools, and cemeteries. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following provision of a Protective Overlay District:

1. Uses shall be limited to those permitted by right in the "GO" General Office district plus hotel or motel.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is dominated by the Wesley Medical Center. Commercial zoning exists in the area including commercial zoning for the existing Wesley Motor Hotel located immediately across the street from the subject property. The uses surrounding the site are primarily of an institutional or commercial/office nature.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "GO" General Office and is suitable for the uses to which it has been restricted. However, the MAPC has an informal policy of supporting expansions of existing businesses. Rezoning the subject property will allow the Wesley Motor Hotel to relocate, which in turn allows the expansion of the Wesley Medical Center.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The Protective Overlay will limit uses on the site to those currently permitted plus hotel or motel. A hotel has existed in the area for over 40 years without any apparent detrimental affects on nearby properties. Detrimental affects should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the subject property is separated from existing single-family residences properties by a parking lot and a street.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Public/Institutional" uses. The Comprehensive Plan indicates that "Institutional" uses include churches, hospitals, private schools, and cemeteries. The proposed hotel would primarily serve users of Wesley Medical Center; therefore, the proposed hotel use is found to be consistent with the "Institutional" designation in this instance. The Commercial

Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. While the site does not have direct access to an arterial, it is located one block from an arterial, and if the requested vacation Rutan is granted, the site will access an arterial from a private drive in a similar fashion to an interior lot in a large commercial development.

5. Impact of the proposed development on community facilities: No impacts on community facilities have been identified as a result of the rezoning request. Allowing parking as shown on the site plan may detrimentally impact Sleepy Hollow Park; however, approving the zone change request will not permit parking in the park. Additional public hearings and approvals will be required, and it is likely that less parking will be located in the park, since the Park Board has voiced opposition to the allowing the parking as shown on the submitted site plan. An alternative for parking could be an off-site parking agreement with Wesley Medical Center, which has a parking garage north of the park.

**MICHAELIS** "For the record, let it be shown that Mr. Krout is going to step aside for this topic."

**MCKAY** "I would like for the record to show that I have a conflict of interest because I own the adjoining property, so I will not participate on this item or on Subdivision Item No. 6/1, which is associated with it. I would like to have the right to be able to be in the gallery."

**MICHAELIS** "Okay. We still have seven members."

**GAROFALO** "I should mention, and maybe the others did, too, that I received a letter regarding this from Mr. Krout."

**MICHAELIS** "I think everyone received that letter."

**BARFIELD** "With regard to Marvin removing himself, will he still be available for questions from the audience?"

**MICHAELIS** "Oh, yeah. We can bring him up there and ask him all kinds of questions if we want to. This is your opportunity!"

**KNEBEL** "This is a zone change request on a ¾ acre parcel from 'General Office' to 'Limited Commercial'. It is located at the corner of Edgemont and Rutan, which is right on the edge of the Wesley Hospital property, which is located near Central and Hillside. The applicant, being Wesley, is indicating that they are going to be expanding their hospital in this location (indicating) at the current location of the Wesley Motor Hotel, which is on this property and is zoned 'LC', with the parking lot being zoned 'B'. They intend to re-locate the hotel to this property.

Hotels are typically permitted in the General Office District; however, there are some special restrictions on those, one of which being that the property must have frontage along an arterial street, which this particular portion does not and therefore the applicant has requested the Limited Commercial zoning, but has offered a Protective Overlay to restrict the site to the General Office uses, plus the hotel/motel. He has also offered that the other restrictions regarding hotels and motels in General Office, which deal with restaurants, taverns, etc., not being permitted would also apply to this particular property.

The applicant submitted a site plan with this and I guess has actually passed out a second site plan just before the meeting. I believe they were both handed to you separately from the staff report. One of them is stamped 'Agenda Item 9' and then there is another one that is pretty similar to it also.

This shows an 89 room hotel located on the site; however, just granting this Limited Commercial zoning today is not going to permit the construction of that hotel in either of the site plan configurations. There are a number of other issues that would have to be addressed to permit those, including the vacation of Rutan and Edgemont, which would be the next case that you will consider. The vacations of those streets would allow those streets to be used for parking for the hotel as well as on the west side of the hotel for an entrance drive to the hotel.

One of site plans shows parking within the Sleepy Hollow Park to the north, the second one shows it going right up to the property line of that park; however, were the vacation of Edgemont to be approved, the two family zoning of the current park would then move to the south to the center line of Edgemont which would then still require the parking spaces shown on both site plans along the north line of the existing Edgemont and would require a Conditional Use permit to permit parking in that two family zoning district and so those spaces that are shown there would require an additional approval over and above the Limited Commercial and the vacation that you are considering today.

In addition to that, there are some building setback issues. There are 20-foot platted building setbacks on the property, both on the north line and on the west line. We have talked to the City Law Department and they indicate that as a part of the vacation of the street right-of-way, they think that were the Planning Commission to approve that and specifically state that they were addressing those setback issues by vacating those right-of-ways so that the setbacks could be addressed at that same time, rather than doing a separate vacation of those building setbacks in addition to the vacation of the street right-of-ways.

The existing hotel is across the street to the southwest. It is a three story hotel and contains 55 rooms at this point. There is parking back behind the hotel. To the west of the site is Wesley Hospital. To the south is the location of the expansion;

the tower is located to the northwest of the site, and to the north of the west portion of the site is a parking garage, along Rutan, which has been vacated north of this line here and runs, as a private drive, through the parking garage. Also north of the site is the existing Sleepy Hollow Park, which is a drainage way on the other side of playground equipment. There is housing over by the Sleepy Hollow Park, and also to the east is a row of houses along Edgemont, which actually cul-de-sacs at Vassar and doesn't cross Vassar, except it does intersect with it on the west side. There is an apartment complex and a Ronald McDonald house and another office building to the south of the site.

The Planning staff is recommending that the zone change be approved, subject to the Protective Overlay that was offered by the applicant, which limits the uses of the site to those allowed in General Office district, plus the hotel/motel. We are basing this recommendation on the findings, which I will go over briefly. The character, as far as the character and zoning and uses in the area; the character is dominated by the Wesley Medical Center. There are existing commercial uses, including an existing hotel in the area, right across the street from this site. The suitability of the property is, we believe, suitable for General Office and suitable to be continued to be used in the manner in which it has in the past; however, this board has, in the past, had an informal policy of supporting business expansions. In this instance, the relocation of this hotel would facilitate—I don't know that it is absolutely a necessity, but it would facilitate the expansion of the Wesley Medical Center on its existing site.

As far as the detrimental effect on nearby properties, we feel like with the Protective Overlay, you are essentially adding just a single use to what is permitted on the site today, that being a hotel. We think there is ample evidence that a hotel has existed in this particular neighborhood for over 40 years without having any apparent detrimental effects on any of the surrounding residential or other properties, so we don't feel like those detrimental effects are going to be exacerbated by increasing the size a little bit or relocating this hotel across the street.

Also, the subject property is located across a four-lane street from any of the nearest residential development. The Land Use Guide indicates that this property is appropriate for public and institutional uses. In the opinion of the Planning staff, we feel like the primary use of this particular use hotel is to support the institution of the hospital and we feel like it is therefore compatible with this institutional designation. In as far as addressing the issues of access to an arterial street, we feel like the distance that this site is from an existing arterial street is similar to the depth of a lot of commercial properties where you have an outbuilding and then a commercial building behind it, so we feel like the access to the commercial street is similar to the access that is provided by many commercial properties to arterial streets.

As far as the impacts on community facilities, we do feel like either plan that you have shown there is going to have an impact on the Sleepy Hollow Park. Obviously there would be some changes involved with that park as it is currently today. The right-of-way of Edgemont is essentially used as open space for the park, about the north 15 feet of that, and in either one of those plans were they to be developed in that way, there would be impacts there. However, an additional public hearing on the Conditional Use to permit the parking in that 'TF-3' two-family zoning district would be required. In addition to that, that property is owned by the City, so the City, in addition to putting conditions on a Conditional Use could also put contractual stipulations on the use of that property to ensure that the park was not detrimentally impacted.

The District Advisory Board did hear this on Monday night and recommended 7-2 to deny it. That concludes the remarks I have prepared. With that, I will make myself available for questions."

**BARFIELD** "I have three questions for you. No. 1—do you know if there has been any consideration to rebuilding the hotel at the current location?"

**KNEBEL** "My understanding is—and the applicant can address this better than I can—but my understanding is that the current location will be used for the expansion of the hospital."

**BARFIELD** "Okay. If this hospital would be built at the proposed location, what would happen to drainage in that area?"

**KNEBEL** "I don't have the answer on that."

**BARFIELD** "Okay. My third question is if this were to be denied, would this go to the City Council, or would that be the end of it?"

**KNEBEL** "It will go to the City Council whether the motion of this body is for approval or denial. The final action on all zoning cases is by the City Council."

**MICHAELIS** "Are there any further questions of staff? Thank you, Mr. Knebel. May we hear from the applicant, please?"

**RUSS EWY** "I am with the Baughman Company, agent for the applicant. I will just do some quick introductions—with me today is Carl Fitch, the Chief Executive Officer of Wesley Medical Center as well as Jennifer Aldifer, the Assistant Vice President are here. David Nevill, who has been instrumental in Maryott putting this project forward and has been working with our office extensively regrets not being able to attend today. Also, we have Doug here, representing the hotel development, and Terry Cassady, the Director of the Development Assistance section of the City Manager's office here. If you have any questions for them, they will be more than willing to help answer them.

I believe there are going to be a few people that are going to want to speak, who spoke at the other meetings that we have had, so I will try to be as straightforward as possible. As Scott mentioned, we are seeking two things today, the vacation of street right-of-way for Rutan and Edgemont as well as the zone change from General Office to Limited

Commercial, under the protection of a Protective Overlay. As part of the process, we are looking to relocate an existing hotel and through that relocation, the hotel would be expanded from a 55-room hotel to 89 rooms, built in a four-story structure.

We have been working quite extensively with the City for an extended period of time to try to put together the best proposal we could that meets the needs of both Wesley Hospital as well as the surrounding property owners. At the end of that discussion, we decided to proceed with all of our development needs through a series of variances that we applied for in April that would have taken us to the Board of Zoning Appeals. After we made that application, the Planning staff discussed with us perhaps a change of course. It was their preference to proceed with the zone change and a street vacation request instead of asking for these variances. We obviously agreed and the application was originally scheduled to be heard last month. We voluntarily deferred one month on both the vacation and the zoning case in order to hold a series of neighborhood meetings in addition to the District Advisory Board meeting.

In these neighborhood meetings as well as the District Advisory Board meeting, there were several common concerns that were expressed by area property owners. The primary issue, I believe, was a discussion about how this proposed relocation would impact the existing park to the north. After listening to the appeals of the neighborhood to leave the park at its current location, and not to encroach into the park in any appreciable manner, and basically after voicing their dislike of the proposed relocation of that park to the east side of Vassar, closer into the neighborhood, we developed this option that I passed out before the meeting, showing how this proposed parking layout will not encroach into the park land.

To continue with that theme, parking is also a consideration in putting this proposal together. We would be required to provide approximately 90 parking spaces per Code. The site plan shows that of the available parking on site, we would be able to provide 33 spaces which would go to the hotel. Parking in the what is proposed as vacated Edgemont would encompass another 35 spaces with the balance of our parking requirement being taken up by existing parking that would be available throughout the hospital complex within a certain radius of the hotel.

The nature of the hotel is primarily to provide highly accessible and convenient accommodations for friends and family of the hospital's patrons. To a lesser degree, the hotel will also provide accommodations for professional medical staff and business staff that come into town to do work at the hospital. In addition, many of the residents in the area, several spoke at the District Advisory Board meeting, saying that they also patronized the existing hotel. We would feel that by providing a newer, more modern accommodations, that would most likely increase as well.

Less of an issue, during these meetings was a traffic increase. I think, although Edgemont is not a through street that leads into the Sleepy Hollow neighborhood, the neighborhood perceived that by increasing traffic on the site, whether it is through the hotel relocation or the hospital expansion, that somehow that traffic was going to flow through their neighborhood. We obviously disagree with that assessment. Obviously, these concerns have less to do with our request to add one use to the subject property and more to do with the future overall expansion of the hospital, which is obviously outside of the scope of the zoning request as well as the vacation request. So in summary, we believe that by understanding that this is a hotel that functions primarily as an amenity to the hospital, and to that end it is going to be situated in a location that best suits that need and has the effect of moving the existing use simply across the street to the northeast. It is a hotel that is going to be well within the scope and scale of the entire medical complex. We also feel that this is not significantly different than what could be developed under the existing General Office zoning.

Finally, we have attempted to take notice of the central issue to the neighborhood, which is that the park must not be fundamentally altered. I believe that Scott said that the park is still encumbered by this new design. It has come out in the neighborhood meetings that the Park Department will be rehabilitating this park in the future regardless of what we do with the hotel. So there is going to be change to that park that is going to make our proposal work much better with the existing park.

Simply stated, we are seeking to redevelop the subject property with the use that is, in many ways, the same that is permitted under the General Office district with the addition of the voluntary Protective Overlay. It is a use that already exists in the immediate area, and in a location, as I believe the staff report states, is dominated by the Wesley Medical complex. There has been a lot of discussion, as I mentioned, especially at the District Advisory Board about alternative locations. Again, I would just simply say that this location is one that we feel is most appropriate to serve the needs of the hospital as well as the hospital's patrons who are in need of this type of accessibility and who are staying at this hotel, probably not under the best of circumstances. With that, I will close my comments. If you have questions of me, I can answer those. If you have questions for members of Wesley or the hotel development staff, they would be willing to answer those, too, at this time."

**MICHAELIS** "Mr. Ewy, is it your desire to have any of those people speak, using up the remainder of the time?"

**EWY** "Not necessarily. I make the formal presentation. They are just here to stand for questions."

**GAROFALO** "I have a few questions of Mr. Ewy. If the vacations were granted on those streets, how do you visualize the traffic flow for the hotel?"

**EWY** "As it currently exists. Both Rutan and Edgemont would be required to be maintained as access easements as well as utility easements. There would be no ability for us to build across either street right-of-way, so basically what you would have is just a change in ownership. Those would no longer be public streets, they would be private streets and fundamentally, the traffic flow would still be a twoway traffic flow."

**GAROFALO** "So the traffic flow on Edgemont would be two-way?"

**EWY** "That is correct."

**GAROFALO** "So you would have access to Vassar?"

**EWY** "That would be correct. Nothing in our proposal would limit access to Vassar, nor did we feel that the Fire Department or emergency services would recommend that as part of the vacation case last week at the Subdivision Committee."

**GAROFALO** "Would you anticipate, since the entryway would be on Rutan that most of the traffic would be using Rutan to get to the hotel?"

**EWY** "Under its current design, we probably feel that the traffic split would be, again, similar to what exists today, a lot of entry into the hospital campus from Rutan and the majority of the exit from the hospital complex on Vassar, due to the fact that Vassar has the street light."

**GAROFALO** "I guess I didn't understand the parking plans. The site plan that you distributed shows to me parking there at the park. But you are saying that you are not going to encroach."

**EWY** "That is correct. It shows parking ending at the property line of the park, that is correct. The parking shown on the north side of what is potentially vacated Edgemont is located in that vacated street right-of-way, as opposed to the original site plan, which does show parking encroaching into the park."

**GAROFALO** "So your parking plans, then, are as indicated on the site plan to the east of the hotel and to the south, and to the north?"

**EWY** "That is correct."

**GAROFALO** "How many spaces does that all add up to?"

**EWY** "In total, it adds up to 68 parking spaces of the 90 that would be required. And as I mentioned, the balance of that parking demand could either be adjusted down through the administrative process or more to the point, Wesley has a parking structure to the north of the park, as well as surface parking to the west that could accommodate through an off-site parking agreement, the balance of that parking requirement."

**GAROFALO** "So, if this was approved and the hotel was put in, I guess I would anticipate the greater amount of traffic on Vassar, then. Where the current location is."

**EWY** "From the current location on Central and Rutan, that would probably be correct. Other than the fact that left-turn movements off of Rutan are difficult today, as they will be in the future."

**GAROFALO** "My next question deals with a business aspect. The change from a 55-room hotel to an 89-room hotel is kind of significant."

**EWY** "By 62 percent."

**GAROFALO** "It is going to increase by another floor. Why the increase?"

**EWY** "In short—and perhaps there are other speakers that can better address that or provide greater detail to that—my answer would be that the occupancy rate at the current facility is modestly low. That has a lot to do with the age and condition of that structure. We feel that with a new hotel that that occupancy rate could be increased as well as an 89-room hotel would accommodate the need that is probably there today. We feel that we could accommodate an 89-room hotel."

**BARFIELD** "I am going to ask you the same question that I asked staff. Are you aware of any discussions to rebuild the hotel in its current location?"

**EWY** "The only reason we are here today is that that impinges on the expansion plans of the hospital itself. Again, Mr. Fitch could probably answer some of those general expansion questions. But, no, the location of the hotel as it is situated today would interfere with the hospital's overall expansion needs."

**BARFIELD** "You talked about the occupancy being quite low. How would you compare it to say, the occupancy rate 10 years ago?"

**EWY** "That is a very good question, and one that I am not prepared to answer. The occupancy, just for your information, I believe that the numbers ranged from 30 to 45 out of 55 rooms, whatever that figures out to be. I can only assume that occupancy had been higher in the past."

**CARL FITCH** "Thank you. I am the President of Wesley Medical Center. The question about occupancy—years ago, the occupancy would most assuredly been higher because it was a larger hotel at the time. We currently have one wing of the hotel closed because in our estimation, it wasn't safe to occupy."

**BARFIELD** "Have you seriously considered the south side of Central as a potential site for the hotel?"

**FITCH** "We have looked at the south side of Central, and obviously there is space there that is available for purchase. There are title restrictions on the land, but most importantly, we feel that the site that we own that we are talking about now is a much better site because of the fact that it is on the north side of Central and it is more convenient for the guests staying there to get to the hospital. That is one very attractive point to those who stay there is that they can simply walk to the hospital. If they were to walk to the hospital given the current configuration of stop lights, etc., on Central, they would have a long walk because there is no stop light crossing at the Rutan/Central intersection."

**BARFIELD** "Let me just say this and then I will be finished. I wouldn't even consider building a hotel on the south side without an overhead crossing."

**FITCH** "Actually, sir, that was discussed and of course that is a whole other story and an entirely different financial picture as well. But the hotel is urgently needed by our guests and visitors. We serve the entire state of Kansas, and since most of that is predominately rural, a lot of people come in and it is their stated preference to stay there. The room rates have been very reasonable. They don't ask for swimming pools and other amenities, certainly not a bar, and it is needed by our guests."

**BARFIELD** "I would just say this, Russ stated the fact that the proposed site would best serve the needs of the people that utilize this facility. I would tend to think that with the hotel at its current location, fronting an arterial street would provide much better access to people that in particular were coming from out of town. I think the current location would provide a better access."

**FITCH** "The current location is, of course, about 30 feet closer, simply across the street from where we are proposing it. But the current location of the hotel sits right on the parking that we need to replace parking that is going to be lost in the expansion of the hospital."

**JOHNSON** "The existing hotel, do we have the date when it was built?"

**FITCH** "I don't have that date, but I would estimate it to be in the 50s."

**JOHNSON** "So it has been there a long time. Do you have an idea of the number of patients that Wesley was about to handle at that time versus today?"

**FITCH** "Again, I don't know the exact numbers. But back in the 50s, the bed capacity would have been less than what it is today. We are licensed for 760 beds today. It is the second largest hospital in Kansas. Back then, it would only be a guess, but it is certainly more today than it was then."

**JOHNSON** "That is kind of my point of why the hotel may need to be larger, also, with more patients now."

**FITCH** "Yes. And I would simply add, and you could verify that with the developer, but there are economic reasons from the developer's point of view as well, to have a slightly larger than a 55-bed hotel."

**HENTZEN** "Mr. Fitch, when you started, you said something about not using one of the wings...did you mean the hospital?"

**HENTZEN** "No, sir. The hotel. One wing of the hotel, one three story section of the hotel is currently not in use because of concrete failure, etc., we deemed that it would be a lot safer to not use that end of the hotel. That is the north wing of the current hotel."

**GAROFALO** "Sir, this new hotel would be owned by your company?"

**FITCH** "No, sir. We would lease the land to the local developer that is represented here by Mr. Maryott. It is The Wichita Inn chain. They would build and develop the property at their expense and own and operate the hotel on the land that we would lease to them. I would simply add that this has been a very exciting part of our remodeling program. We sought a developer for a hotel for a long time and when a local developer, specifically the Wichita Inn, stepped up to the table, we were quite excited about that."

**GAROFALO** "Is the existing hotel owned by Wesley?"

**FITCH** "We do own the existing hotel, that is correct."

**GAROFALO** "And it is managed by you?"

**FITCH** "And we manage it ourselves, but it would be owned and managed by The Wichita Inns."

**MICHAELIS** "Are there any further questions? Okay, thank you, sir. Are there any other questions of the applicant? Okay, could I have a show of hands, please of how many people are wishing to speak in this item? Four. All right. Now, just to reiterate the rules a little bit, the applicant was allowed 10 minutes to speak and he will be allowed 2 minutes to speak afterwards if necessary, and each of you are allowed 5 minutes and are not allowed an opportunity to speak after you have once spoken unless somebody directs a question to you. With that in mind, will the first speaker please come forward?"

**KIM HAMLIN** "I live at 547 North Yale. I represent a loosely organized group of people who are opposed to both of these requests. We did submit a petition to the District Advisory Board on Monday evening. That petition had more than 100 signatures on it. We have items on our petition that directly state the opposition to the two items that you are considering today.

It has been mentioned that the main reasons that we are opposed to this have to do with preserving the Sleepy Hollow Park and with traffic. We have requested that the City and its boards provide an evaluation of the traffic flow. As one of your members pointed out, we believe that with the increased size of the hotel, the traffic patterns are going to change and the traffic is probably going to end up in our neighborhood. So we would like to have a commissioned study to determine what the traffic patterns will be and what the impact will be on our neighborhood.

From a personal perspective, that is Kim as a representative of the neighborhood, and just as a personal comment, I guess I would like to remind the member of this board that that park is a very well used park and it serves not only the residents of our neighborhood, but it also serves some institutional uses. The Wichita Children's Home is a couple of blocks away, the Alcott School is in the neighborhood and both of these public institutions also use this park. It is an important park to our entire city, not just to our neighborhood.

My last point is that we would, and we seriously asked all of the agents and the boards to please consider putting this hotel on the south side of Central. From our perspective, for the city as a whole, that is a better place to put it. From our perspective as residents of the neighborhood, we think that solves our traffic issues. So we would like to see that area, which currently is not very well developed, be used for the hotel site. We think it provides better access for the travelers that use the hotel, and it alleviates some of our concerns. Thank you."

**MICHAELIS** "Are there any questions of the speaker?"

**BARFIELD** "It has been noted here by staff that a hotel at the current location, as well as a hotel at the proposed location would not detrimentally effect the property. Would you say that the hotel, having had it there for the past 40 or 50 years, has had a detrimental effect on the neighborhood?"

**HAMLIN** "No, sir, I don't think it has, but the hotel is currently occupied at a 30 to 40 room occupation rate per day. We are now talking about an 89-room hotel. So we are basically doubling the size. And today there is only traffic control at Vassar, off of Central. That is the only stop light in the area that we are talking about. There is no stop light at Rutan and Central, there is no stop light at either Rutan or Vassar on Murdock, which would be the north exit."

**MICHAELIS** "Thank you, ma'am. The next speaker, please? When you start, would you say whether you are speaking in favor of or in opposition to?"

**CAROL SKAGGS** "I live at 3440 Sleepy Hollow. I am speaking in opposition to the request. One point I would like to make is that the hotel is not essential to the day-to-day operation of the hospital. It is a courtesy to people who come there to see people in the hospital. We are not adverse to the fact that it is necessary for Wesley Hospital to expand. We have lived in the neighborhood long enough to know that that is going to happen. But the position of the hotel and the size of the hotel would be intrusive into the neighborhood. Wesley Hospital has said to us in meetings that parking at this point is not a problem for them and we feel like, then, that if you are going to put a hotel someplace that you should provide for parking without taking over a city street or part of a neighborhood. If the hospital doesn't have a parking problem, then if the hotel is put there, they should provide the parking as their part of the deal for having the hotel there.

We have a resident in our neighborhood who has a small business on East Central, and she sought to add a building on to her property and the City was there to tell her about how many parking places she had to have, how much grass she had to have, how many trees and how many shrubs so that she would conform to the policies and standards of the city. This is what we are asking then, for Wesley Hospital to be held accountable to the same standards that are already in place for putting buildings up in the city. We also have never seen pictures or don't have any idea of what this hotel would look like or what the landscaping or any of this part would look like, and it looks like what they are asking for is a blank check to put up whatever they come up with. This is part of our opposition to that.

Another point that I would like to make to you as the Metropolitan Area Planning Commission is that the process and the way that you have these things broken up make it very difficult for the average citizen to follow, and to know where to speak and when to speak and what to speak about, whereas the City provides planners for the business community to walk them through the same process. It seems to me grossly unfair that that same courtesy is not allowed to taxpayers so that they can see their way and find their way through this process."

**MICHAELIS** "Are there any questions of the speaker? Thank you, ma'am. Next speaker."

**TERRY COOPER** "I live at 3318 Country Club, and I am President of the McDonald Neighborhood Association. I have a question for the board, and I am speaking in opposition. There are three points that I would like to talk about briefly. One is the hotel placement and design or lack thereof. Traffic flow concerns, and the park.

About the site plan for the hotel, as it has been stated previously, there has been no visual image given of the hotel, so of course, we of the neighborhood are rather apprehensive about this. We don't know anything about are the rooms going to be facing out or in? Are there going to be people on the balconies? What type of sound barriers, what type of building materials are going to be used for the hotel? Lighting issues. Signage issues. These can impact the area.

Also, about the Comprehensive Plan policies. It states that Commercial zoning should be concentrated in mixed-use activity centers near arterial intersections. It is our understanding that this is not meeting this requirement for the proposed placement of the hotel.

Another major concern of the area is a lack of a traffic study. If you will refer to our site plan, it is my understanding that the turn lane onto Rutan is going to be closed because there will be a continuation of the median strip. That means that only traffic going west on Central will be able to use the Rutan entrance. That means that the traffic going east on Central will need to use the light at Vassar. I travel this street daily and you can only probably get two or three cars in that turn lane to turn onto Vassar. This will dramatically increase the traffic on Vassar. Currently, the people using the Vassar Street are the Wichita Clinic employees and patients, the Wichita Children's Home, the Alcott School. Their buses go down Vassar. The local residents and children coming from College Hill Elementary. As you know, east on Central, there is a cross walk for children coming from the elementary school over into the Sleepy Hollow area. If the hotel is built at its proposed site, then there will be hotel traffic on Vassar.

In Phase II of the Wesley expansion, they propose orienting the new entrance, which would necessitate people coming onto Vassar, and of course, the people using the Wesley parking garage will also be using Vassar, as well.

Mr. Finch stated in a meeting that currently they have served 22,000 patients at Wesley. That does not include the number of visitors, and people who work at the hospital. I can't imagine, as a resident, having that amount of traffic go through our area. I live on Country Club and when we have our annual block meeting, one of the jokes that we have is 'what is the highest speed that people use coming across Country Club to go either to Wesley or to the Wichita Clinic?' The person who guesses the highest number, if it be 80 or 90 always wins the prize. We have a lot of traffic that goes through our neighborhood getting to Wesley and the Wichita Clinic. In fact, we have spoken with our community policing officer on two different occasions about the amount of traffic and the way that people speed through the area. So our feeling is that with these zoning requests and the way that the orientation of the new entrance in the hotel there, it will increase the amount of traffic through the neighborhood.

One of the proposed reasons that Wesley has given for building the hotel at this site is because of the proximity to the entrance to the hospital. I would like to suggest that there are other solutions. Placing the hotel over across the street south on Central. For example, Via Christi Hospital offers a shuttle bus for out of town visitors from the hotel to the hospital."

**MICHAELIS** "Ma'am, your time is up. Do you need additional time?"

**COOPER** "May I have 2 minutes more?"

**MOTION:** That the speaker's time be extended for 2 minutes.

**MCKAY** moved, **JOHNSON** seconded the motion, and it carried unanimously (11-0).

**COOPER** "Thank you. Also, it has been stated that the reason for the hotel placement at its proposed site is because of the proximity. At a meeting that Mr. Krout and I had with Mr. Nevill and Fitch, Mr. Nevill stated to us that the best placement for the hotel, would, in fact, would be across the street but that was not being considered because of the expense of the land.

A couple of comments about the park. It has been said that with a Protective Overlay, there will be no significant detrimental effect to the park with the current site proposal that they just handed out prior to the meeting. I would still suggest that if you had been to that park, even if they do not, you will still have to allow for right-of-way and the sidewalk, which will, in fact encroach upon the park area. The park is very narrow and that additional 10 to 15 feet, even with the new proposal will have a detrimental effect on the park.

Many people use that park, my son included. The College Hill Elementary also makes walks to that park. That park is important to the area. In conclusion, we would respectfully urge that the MAPC not consider Wesley's request piecemeal, but in a comprehensive, coordinated long-range manner for the benefit of our neighborhood. Thank you."

**MICHAELIS** "Thank you ma'am. Any questions for the speaker? Next speaker, please come forward."

**PEGGY JOHNSON** "I am the Executive Director of Wesley Medical Research Institutes. We are neutral. Can we be neutral? Is that all right? When you see where we are located, you will see why we are on the fence. (Indicating) The new hotel is right there and we are right there. I represent that organization and the Board of Directors.



We are a Kansas charity; we are a 501C3. We do not have a link to the hospital, except by name. We have been in the community for 50 years, providing funds for medical research throughout the community. We are the one property owner that is affected by the zoning and the vacation of Rutan and Edgemont. I am here to tell you that we are neutral in this. We have been in discussions with Wesley Medical Center, talking to them about our concerns. They are addressing our concerns and I feel very comfortable with the discussions we have had with them. They are agreeable to our concerns and I will tell you, if anyone, we probably will be the most affected because our parking is (indicating) right here on the south side of the hotel. If you can see right there, those are our parking spaces, along with these right here. So if anyone has a day-to-day nuisance, it would be myself and our employees.

The Wichita Eye Bank is also housed in our building. I will tell you that we became knowledge about this not very long ago, partly because the City staff was unaware because of our name and they assumed that we were a part of Wesley Hospital. But I worked with Mr. Longnecker and he was very kind in answering my questions. He gave me advice and I have to tell him that in the position he was in where we got left out, he really became very helpful.

We obviously have some concerns about this. I watch the existing hotel, it is right out of my office window. I look at it every day and see the people that are there. I know that they are visiting patients in the hospital and I know that it is a service to them. Many times there are small children with them. The hotel does need help, and probably razing it is the only solution, so at this point, I am telling you that we are not neutral. This isn't something that we would go out and ask to have happen in our back yard, but we believe that Wesley Hospital is valuable in our community and what they are doing, I think, is valuable.

The last thing, I have never heard this and I don't know where the woman who said it heard it, but she said they are talking about closing a lane on Rutan. I had never heard that. Could anyone address that?"

**MILLER** "There are improvement plans for the Central and Hillside intersection and I don't know that I have actually seen them, but it is my understanding that when that goes through that they will close that connection there at Rutan and Central and that there will be a median that will run the whole length of it. I need to verify that, but that is my understanding."

**P. JOHNSON** "Well, I have heard that you were thinking of moving the stop light from Vassar to Rutan."

**MILLER** "I have heard that, too, but I don't know if that is true."

**P. JOHNSON** "Is there any way for the City to let us know?"

**MICHAELIS** "That would be more of a question for Engineering. We wouldn't have any information on that."

**MILLER** "We can check on that and get back to you."

**P. JOHNSON** "So you are talking about that there would be a median through Central, all along Central so that you could not get from Rutan across the street?"

**MILLER** "Right. You couldn't go from Rutan straight north, or say from Wesley's property straight south. You would have to make a right turn and go around. I will have to check on that and confirm it."

**P. JOHNSON** "That would be a concern to us. That would impact us, and it would impact the value of our property considerably, I would think. Are there any questions for me?"

**BARFIELD** "Ma'am, I heard the applicant state that several of the neighbors, I believe was his term, 'utilize the hotel facility'. So, how can you distinguish who is visiting patients and who is from the neighborhood?"

**JOHNSON** "Because they leave their rooms and walk around to the hospital. I am there from 8 to 10 hours a day, and on weekends."

**COULTER** "You mentioned a couple of times that you had a lot of concerns and Wesley had addressed those concerns. Could you express some of those?"

**JOHNSON** "Sure. Encroachment from the hotel guests in our parking. That is probably one of the largest ones we have. In fact, Russ and I spoke about it today and we are going to have to be very creative with that. We have people parking in there now. We have hotel guests that park in there. I can tell by the county on the tag. If I pull into work in the morning and there is a vehicle there from Finney County, they are not in my building doing business. They are more than likely staying at the hospital, or it could be a parent that is using Ronald McDonald. We are really pretty lenient about that, especially with the parents from Ronald McDonald. But that is one of my concerns.

Obviously, in the city vacation of Rutan, I am concerned because the upkeep of the street will then become the responsibility of my organization. We are currently in discussions with the Wesley Medical Center that they are going to take over that particular concern for us. Those are just a couple of them. Are there any other questions?"

**MICHAELIS** "Are there any other questions for the speaker? Thank you, ma'am. Next speaker."

**BARRICK WILSON** "I am the Executive Director of the Ronald McDonald Houses. We are immediately adjacent to the Wesley Medical Research Institute property, and we are speaking in favor of this development. It is not something we would ask to be put in our back yard either, but we have approximately 8 to 9 families per night on average from out of town staying at the Ronald McDonald House and they need parking. We have been assured that there are 13 stalls on the south side of the parking lot that will be reserved for the Ronald McDonald House. We constantly have people from our Ronald McDonald House staying in the Research Institute and we have people from Wesley staying in our parking. It is something that we have been doing for 20 years.

Twenty years ago, I was the Director of Public Relations for the Wesley Medical Center, and as such, I have been in an adversarial position, although not willingly, with the neighbors of Sleepy Hollow for anything that has been developed in the Wesley Medical Center. I had to speak positively about parking garages, about ambulances, about helicopters, about life saving equipment, about traffic, and I can guarantee you that the ebb and flow of the hires and layoffs at the Wesley Medical Center have far more of an effect on traffic in the neighborhood than an 89-bed hotel. I had to be there to lay them off and I understand the effects of that on the neighborhood and on the workers.

So I have a vested interest. We have several services that are provided to us by Wesley Medical Center and we are very grateful for that. We get a lot of chocolate chip cookies from Sleepy Hollow, and we are grateful for that also. So, we are in kind of an awkward situation on that, but we are in favor of it, and we are very directly effected by it. But we think that the families coming from out of town need a place to stay and we think this will answer a question that is needed for those families who don't need the Ronald McDonald House and for those families who have adults staying at the hospital. Thank you."

**MICHAELIS** "Sir, where is your building in relation to this?"

**WILSON** (Indicating) "I am right there. It is the gray house right next door."

**MICHAELIS** "Thank you. Are there any other questions of the speaker?"

**GAROFALO** "You mentioned 13 parking spaces are going to be reserved for the McDonald House. Where are those?"

**WILSON** (Indicating) "Along here, where they already are. They are already there and there are signs up there that say 'Reserved for the Ronald McDonald House'. We even have one in front of the house manager's sign that says 'Don't even think of parking here'. It doesn't scare off many of the people from Wesley, but the sign is up there. But that is where they would be, and that is all we are asking for, good signage to sure the families who are under stressful situations can find the Ronald McDonald House when they come from out of town and we have been assured that that will happen."

**MICHAELIS** "Okay. The next speaker, please. Is there anyone else wishing to speak either in favor of or in opposition to this? The applicant has two minutes for rebuttal."

**EWY** "Real quickly, to answer Mr. Garofalo's question or to clarify, perhaps, something that may have been misconstrued. Those 13 spaces that have been dedicated for the Ronald McDonald House does not come out of the number of 33 spaces that I presented earlier. If we did not grant those spaces on our property to the Ronald McDonald House, we would have 46 spaces on site."

**GAROFALO** "Since you are on that, can I ask a question?"

**EWY** "I am going to need every second I have here."

**GAROFALO** "I could have let you finish and then I have a question, but since you were on the parking thing—when I was looking at the site plan, until the lady from the Research Institute spoke, I was thinking that these parking places would be included for the hotel, but she says that they are theirs. And now I find out that there are 13 more that are taken away, basically."

**EWY** "It is pretty clearly indicated on the site plan that we are not including the Wesley Medical Research Institute parking and that we clearly define those southern 13 spaces as not included in our parking."

**GAROFALO** "So what are we talking about then, if you do not include those 13?"

**EWY** "I just thought that his comments might lead somebody to believe that we were actually subtracting 13 of our 33 spaces, leaving us with 20, and I just wanted to clarify that. And now that I have sufficiently confused the issue...."

**GAROFALO** "So you are saying that you do have 33 spaces."

**EWY** "We have 33 spaces on site. Now, quickly, because I know that Mr. Fitch wants to address a couple of concerns that were brought out; primarily the need aspect of the hotel being located at this location as well as the building material and what the aesthetics of the hotel will look like. I know that he wants to address that.

I will simply say that in looking at this request, I would hope that you would look at the need of the users of this hotel and what their needs are. If you have ever experienced members of your family or friends that are in a hospital for an

extended period of time, I think the last thing you want to worry about is catching a bus over to your hotel. I think it does provide an obvious amenity and courtesy to those patrons.

Second, I think as part of that, you are not looking at traditional users. You are not looking at people who are flying into town, driving around town in rental cars, and you are not catering to the traveling public, as most hotels are. This is a very specific set of users, most of them are probably going to park their car under the shelter of the parking garage if they are there for any extended period of time. Most of them aren't traveling around town. Most of them are literally walking across the street to the hospital. I think if you also look at it from a purely land use standpoint, you could argue that this type of hotel will have less of an impact on traffic as what could be developed there under the General Office District, again.

We have support of the City staff. I don't think we would have proceeded this far in the application had we not been comfortable in ironing out a lot of these developmental issues with the City. We feel that we are meeting everybody's needs following these neighborhood meetings by taking our parking out of the park land and re-designing the site that accommodates most everybody's needs."

**MICHAELIS** "Mr. Ewy, your time is up."

**EWY** "Could I get an additional 2 minutes, please?"

**MOTION:**  
for 2 minutes.

That the speaker's time be extended

**WARREN** moved, **MCKAY** seconded the motion, and it carried unanimously (11-0).

**EWY** "Again, we even came up with a plan to relocate the park facility on the east side of Vassar where it would be more accessible to not only the Sleepy Hollow residents, but also the children of the school and the children's home that was mentioned earlier. With that, I will stop my comments and let Mr. Fitch address some of those other specific issues that were raised."

**FITCH** "Two things, very quickly. The reason that the neighborhood has not seen the site elevation for the hotel is because there isn't one. We chose to wait until we had the meetings with the neighborhood so that we could get their input. We have agreed to meet with them and show them the plans as they develop. We intend on the plans for the hotel to look very attractive to blend in with the hospital campus and if the charm of the Sleepy Hollow neighborhood is Tudor, we can even accommodate that.

I wanted to address the comment about the essentialness of this hotel as it relates to our patients. We deliver 5,000 babies per year at Wesley Medical Center. It is the largest birthing center in the State of Kansas. We see 5,000 people in our emergency room every month. Nine hundred of those 5,000 emergencies are trauma cases, and of those 5,000 births, many of the children go into our Neo-natal Intensive Care unit, which is 36 beds. It is filled all of the time. The mothers of those infants stay at that hotel. The parents, the family members of those people who are in our surgical intensive care units because of the trauma of their patients stay in this hotel. They want to be close, they want to have access 24 hours a day if there is some critical nature to it. So I would argue strongly that this hotel is needed. This is not just a convenience for our patients. Thank you."

**BARFIELD** "Sir, I would like to ask you two questions. What is the current rate structure at your present facility?"

**FITCH** "The hotel rates? I think our current rate is around \$36 per night. The reason for that is because by poling the customers at the hotel, they tell us that they can't afford more. They don't want to stay at the Hyatt Regency; they can't afford to stay there. They can't afford to stay at the Marriott Hotel. They want to stay someplace where it is clean and safe and reasonably priced. We have been able to offer that even though the accommodations are out of the 1950s.

One of the reasons that we were so supportive of the Wichita Inn is because, and you know from driving around this city, their posted rates are in the \$40 and \$50 range, and we feel that that is still a fair rate and that the customers of the hotel, our patients and guest will find that to be satisfactory, given what the amenities of the newer hotel will be versus what they are now."

**BARFIELD** "But certainly you won't be able to offer that same rate with a new facility."

**FITCH** "No, not the \$36 rate, but what I am saying is that the Wichita Inn rates that are currently posted around town, and which they intend to use are in the \$40 and \$50 range. That is what the rate will be, approximately. That is our understanding. So we feel that instead of being in the \$80, \$90 or \$100 range, that the rates will be in the \$40 and \$50 and will be acceptable to those guests."

**BARFIELD** "Well, I guess I am a little bit concerned when we talk about this and you put strong emphasis on the need, and yet you say, in answer to Commissioner Johnson's question, that the occupancy rate today is down and yet your patient rate is way up."

**FITCH** "It is down partially because 1/3 of the hotel is currently closed, and the second reason is that a lot of people prefer not to stay there right now because of the deteriorating condition of the hotel. We know that we have visitors and guests staying out on Kellogg right now because the rates are cheaper out there. We know that because we make some of those placements. We have a 'Department of Guests Services' that routinely make guest placements for the folks. Some of them who have stayed at the current hotel prefer not to stay there right now because it is so old. It just needs to be torn down and replaced."

**COULTER** "I have two questions. I know that I have had friends and family stay there that have come into town for testing purposes. Do you also see that?"

**FITCH** "Those that come in for tests, absolutely. They stay at the hotel."

**COULTER** "Right. And a lot of the residents are concerned about the park. It sounds like the City is supposed to be upgrading that park in the future. Would Wesley be interested in helping with that?"

**FITCH** "The hospital has said that it would replace the playground equipment at our expense if that was necessary. We also would be willing to put a fence around it. Frankly, we don't think that particular west extension of the Sleepy Hollow Park, which is bordered by the hospital on three sides and Vassar on the fourth side is a very safe park for little children to go to now. If it continues to stay there, we would, in fact, be willing to put a fence around it to protect them."

And on that subject, if I might add, one of the other speakers suggested that the Alcott School and the Children's Home use that park. I would challenge that statement because the Children's Home has its own playground and so does the Alcott School."

**GAROFALO** "You said something in regard to the necessity of a hotel there. As one Commissioner, I just want to clarify where I am at. I am not doubting that you need or want a new hotel there and that that would be convenient for the patients and their families. I think the question here is whether or not this is the proper location. I think that is the question."

**FITCH** "I think we addressed that earlier, but the alternative that the neighborhood would like us to consider is to locate it on the south side of Central, which we don't believe is nearly as convenient or safe, and besides, we don't own that property. We own this property and it is on our campus inside our boundaries. It is not in the Sleepy Hollow neighborhood, I might add, it is on our campus."

**HENTZEN** "I have a question for Mr. Ewy. When I looked at this the other day, going east from Vassar on Edgemont, that is closed off now, it is a cul-de-sac, is that right?"

**EWY** "That is correct."

**HENTZEN** "And how about the one street north of Edgemont?"

**EWY** "That is the same way."

**HENTZEN** "That is Sleepy Hollow. You say that is closed off, too?"

**EWY** "That is also closed off in similar fashion."

**HENTZEN** "In other words, both of those streets are closed. That somewhat mitigates traffic running through that neighborhood."

**EWY** "I think it is difficult to really envision a lot of inter-mingling between the two different types of traffic on Vassar."

**HENTZEN** "Let me make a short comment about this whole thing. I came here in 1951, so I have been here for 50 years. Some of the things that has happened to our hospitals, in my judgment, have been tremendously good things. Specifically, Via Christi over here on Murdock and Wesley out there have stacked garages; multi-story garages. One thing they did that is very convenient for anybody to come there was to offer free parking. I don't know how many years that has been going on, but they used to have to have an attendant there and they had people backed up coming in and people backed up going out. They have changed that, and I can tell you, being at these two hospitals over that 50 years, I have never seen them full where there was not a space for you if you drove in. You might have to go to the top, but you can get service."

The other positive thing that I think has happened about the medical places is the Ronald McDonald Houses. There are people there who most of the time come from out of town with some very sick kids and many of them don't have a lot of change in their pockets and they need a place to stay. I am just telling you that in my opinion, those are good improvements. That is just what I wanted to tell you."

**EWY** "We appreciate that."

**BARFIELD** "What I would like to do is to have Marvin come up to the stand."

**MICHAELIS** "Okay. Mr. Krout, please come forward. We will need your name and address, sir."

**KROUT** "I am Marvin Krout. I live at 3421 Edgemont in Wichita."

**BARFIELD** "Marvin, I have to kind of put you on the spot here. I want to say that since I have been on this board here, one of the things we have talked about on almost every one of these types of applications is how it fits into the Comprehensive Plan. That has not been mentioned here, with the exception of one speaker, who was in opposition. In the letter that I have here that I received from you, you made mention of the fact that the Metropolitan Area Planning staff omitted reference to policies in the Comprehensive Plan and to me to do that implies that these people here and implies to me that maybe the Metropolitan Area Planning Department is showing favoritism to the Wesley Medical Center. I don't think that is fair, I don't think it right, and I don't think it is fair for us to consider this case without taking into consideration the fact that this application does not fit into the policies that are set forth by the Comprehensive Plan. Now, I want your response as to why you think we are not talking about how this fits into the Comprehensive Plan?"

**KROUT** "Let me state first that sometimes there is a policy in the Comprehensive Plan to serve everybody's argument—and both sides of an argument. I think the staff did try to attempt to try to find the ones that they thought were appropriate. I just pointed out that I think that they didn't look at all of them and I certainly don't think that it was intentional."

What I was trying to say is that the Comprehensive Plan in general says that intensity is supposed to grade away from the major intersections with the highest intensity uses nearest the intersections where the traffic is the highest and the accessibility is the highest and is supposed to transition to low-density residential neighborhoods, both in terms of uses and in term of scale. I don't think that this four-story hotel occupying higher coverage than a hotel usually does because it is not providing the parking that a hotel usually does in this location where you have single-family to the east and a much lower density of development even to the south, is an appropriate transition."

**BARFIELD** "Okay, just to go little further, and some of this has been addressed. Furthermore, you stated that zoning this property 'LC' for a hotel violates the spirit of the Zoning Code and the Comprehensive Plan. I don't know that really why we are giving this so much discussion when we take that into consideration."

**KROUT** "Is that a question?"

**BARFIELD** "No, it is just a statement."

**MILLER** "I believe that Mr. Barfield said that the staff report failed to address the Comprehensive Plan, if that was his statement."

**BARFIELD** "I am reading from what Mr. Krout sent in a letter to all of us that says the staff report omitted references to policies in the Comprehensive Plan on commercial zoning."

**MILLER** "And I am clarifying that there is a paragraph in the staff report that specifically addresses the Comprehensive Plan. It is a standard practice to use the policies that fit to each case and it is possible to make arguments on both sides of the case using policies in those plans, as we do every meeting."

I just wanted to clarify that if the statement was that there was no statement on that in the staff report that there is one."

**BARFIELD** "Then I have a further follow-up question for Mr. Miller. Then, would you agree, sir, that the statement 'zoning this property 'LC' for a hotel violates the spirit of the Zoning Code in the Comprehensive Plan'. Do you agree with that or disagree?"

**MILLER** "Staff obviously disagrees with that or we would have written it in there. It is no different than any other protester or staff report letter that we get. You can use the positions to support different ends, and that is all I am trying to say. I want to make sure that nobody thinks that we had no statement about the Comprehensive Plan in the staff report."

**BARFIELD** "Case closed."

**MICHAELIS** "Mr. Hentzen, do you have a question for Mr. Krout?"

**HENTZEN** "Oh, no, I don't have a question for Mr. Krout. (Laughter here.) There is a statement, as you just indicated about the Comprehensive Plan. I think the staff considered it, and following that statement it says 'the staff recommends that the request be approved'. I am just saying that they did address it, and that is what they recommended."

**BARFIELD** "Can you tell me where they addressed it?"

**HENTZEN** "Look at it on Page 3, No. 4 in the staff report."

**JOHNSON** "Mr. Miller, Mr. Ewy had indicated that this thing was started some time ago, and there was an application to go in front of the Board of Zoning Appeals, or for an Administrative Adjustment, or whatever. Could you shed any light on that as to why staff decided to change the first approach versus where we are at today?"

**MILLER** "I think Scott can do a better job on that. He has been dealing with them."

**KNEBEL** "I think that the variances that were requested previously were to allow a hotel in General Office; a variance to vary that particular requirement of the Code, and then also to reduce the parking requirement by 60 or so spaces. I don't know how familiar everybody is with the Board of Zoning Appeals and the state law regarding variances, but the state law is very specific that a variance has to arise out of something that is unique about the property that is not a hardship that is being created by an action of the applicant. In this instance, it is quite clear that the lack of parking on this particular site is an action of the applicant in wanting to build an 89-room hotel on a site that is too small to meet the parking requirement. I don't think that that meets the requirements of a variance.

Because of that, we recommended that there were other ways to accomplish this, and that being providing parking along the street which they showed in their plan, which would have been on-street parking, would not have counted toward their parking requirement. Were they to vacate the street, it would then count toward the parking requirement. Then changing the zoning would accomplish the allowability of the hotel on that particular property."

**JOHNSON** "Okay. One step further than that. Let's just say that if the City or anybody wanted to give Wesley the benefit of the doubt, or give them a better deal than they are giving somebody else, I am sure that there would have been a way that they could have administratively adjusted this and then they wouldn't have been here. They didn't because I think they felt that Wesley needs to go through the same procedure that I would go through, or anybody else. Isn't that true?"

**KNEBEL** "That is accurate. And I think the plan that they have presented so far, that there is no way that anybody, whether it be Wesley or any other property owner would be able to accomplish that through an Administrative Adjustment."

**JOHNSON** "That was the point I wanted to make. Thank you."

**HENTZEN** "I have a question for Mr. Ewy. In your discussion with the staff regarding does it comply with the Comprehensive Plan, did that come up? Did you discuss it with them?"

**EWY** "No. Not necessarily. But in receiving a copy of Marvin's letter, I did see what Mr. Barfield is referring to. I believe it is Item No. 5. I agree with Dale, staff comments do take into consideration—in actually two different places—the Comprehensive Plan, as well as additional policies. Of those statements and policies of the Comprehensive Plan, quite frankly, I like the ones that Marvin used in his letter opposing this request. Commercial zoning should be concentrated in mixed-use activity centers near arterial intersections. Although this isn't probably a CUP or a PUD, which I am assuming he is discussing, we have medical office buildings, we have a hospital, we have multi-family directly to the south of this property, and we have restaurants and shopping around the Central and Hillside area. I wouldn't see why this couldn't be considered a mixed-use activity. Everything west of Vassar between Central and Murdock, Hillside to Vassar. If you look on the zoning map to the south of Central between Vassar and Rutan, you have a large retail, commercially zoned piece of property there that would allow, I assume, retail activities.

The zoning case that we are requesting, albeit 'LC', also contains a Protective Overlay which basically allows us one use that in most ways is already permitted under the General Office zoning. I am somewhat shocked by the fact that there is such a discussion about the leap in land use for this particular site. It is scope and scale, again, something that has been bantered about today as well as through these neighborhood meetings. You have a 10-story medical tower as part of the hotel. Across the street you have a 4-story hotel. South of that you have multiple story apartments and office buildings, and then you get into your residential areas. It is a transitional zone. I can see on the map General Office zoning between us and the low-density single-family residential.

Talking about buffering. Mr. McKay's property currently provides a great screening buffer along Vassar. To the east of Vassar. The existing vegetation there provides protection to the neighborhood. So I guess I am somewhat taken aback by the build-up of what is actually going to occur out here. We simply do not believe that it is a radical departure of the intensity of this complex."

**GAROFALO** "I have a question for Mr. Knebel. What I would like to know on this parking requirement, is what is the parking requirement for a building of this size?"

**KNEBEL** "The parking requirement for a hotel is one space per room plus one space per 250 square feet of any office or open common area."

**GAROFALO** "So, is the parking requirement being fulfilled here?"

**KNEBEL** "Well, no. And I point that out in the staff report that approving the Limited Commercial zoning and approving the vacations are not going to allow the applicant to construct and operate the hotel as shown on the site plan. There are additional processes that would be required in order to accomplish what is shown on that site plan."

**GAROFALO** "So presently, they cannot fulfill, even with the vacation, they cannot fulfill the parking requirements."

**KNEBEL** "The parking that is shown on the site plan does not fulfill the parking requirement. Given the fact that the owner of the land owns all of this land around here, and I don't know how many parking spaces they have—probably over 1,000—it is possible that they have sufficient parking spaces to make available, which I mentioned in the staff report through an off-site lease agreement."

**GAROFALO** "But doesn't that need to be resolved before any approval or whatever?"

**KNEBEL** "It would need to be resolved before the building permit for the hotel was issued, yes."

**GAROFALO** "Well, what about landscaping or screening or anything like that. Are there requirements for that?"

**KNEBEL** "The only residential zoning that would buffer this particular site would be the park itself. That would be the one area where there would be a landscape street yard requirement. They would be required to do parking lot screening on any of their parking areas."

**GAROFALO** "They would be. But I don't see anything in the report regarding this."

**KNEBEL** "Yes, it mentions the fact that the existing requirements, if you look at the 'detrimental effect on nearby properties', it addresses that existing screening and buffering would be required."

**GAROFALO** "Would there be screening required on the east side?"

**KNEBEL** "Not between the two commercial parking lots, no."

**BARFIELD** "Getting back to the letter from Marvin, Scott, there is a sentence here that says 'hotels and General Office districts are limited to arterial frontage as well as arterial access in the Zoning Code'. Now, in your presentation, you mentioned the fact that while this is not on an arterial street, it is so far removed, does the Zoning Code give any reference to how far back from an arterial street is acceptable?"

**KNEBEL** "No. In the General Office district, it has to be right on the arterial street. That is why the applicant has requested Limited Commercial zoning."

**BARFIELD** "Well, as I read this, he is requesting it, but it says 'the Protective Overlay to limit uses to those permitted by the 'GO'."

**KNEBEL** "Plus the hotel."

**BARFIELD** "Okay."

**MOTION:** Having considered the factors as contained in Policy statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The character of the surrounding area is dominated by the Wesley Medical Center. Commercial zoning exists in the area including commercial zoning for the existing Wesley Motor Hotel located immediately across the street from the subject property. The uses surrounding the site are primarily of an institutional or commercial/office nature. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "GO" General Office and is suitable for the uses to which it has been restricted. However, the MAPC has an informal policy of supporting expansions of existing businesses. Rezoning the subject property will allow the Wesley Motor Hotel to relocate, which in turn allows the expansion of the Wesley Medical Center. Extent to which removal of the restrictions will detrimentally affect nearby property: The Protective Overlay will limit uses on the site to those currently permitted plus hotel or motel. A hotel has existed in the area for over 40 years without any apparent detrimental affects on nearby properties. Detrimental affects should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the subject property is separated from existing single-family residences properties by a parking lot and a street. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Public/Institutional" uses. The Comprehensive Plan indicates that "Institutional" uses include churches, hospitals, private schools, and cemeteries. The proposed hotel would primarily serve users of Wesley Medical Center; therefore, the proposed hotel use is found to be consistent with the "Institutional" designation in this instance. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. While the site does not have direct access to an arterial, it is located one block from an arterial, and if the requested vacation Rutan is granted, the site will access an arterial from a private drive in a

similar fashion to an interior lot in a large commercial development. Impact of the proposed development on community facilities: No impacts on community facilities have been identified as a result of the rezoning request. Allowing parking as shown on the site plan may detrimentally impact Sleepy Hollow Park; however, approving the zone change request will not permit parking in the park. Additional public hearings and approvals will be required, and it is likely that less parking will be located in the park, since the Park Board has voiced opposition to the allowing the parking as shown on the submitted site plan. An alternative for parking could be an off-site parking agreement with Wesley Medical Center, which has a parking garage north of the park.) I move that we recommend to the governing body that the request be approved, subject to the following:

APPROVED, subject to staff comments, and to the following provision of Protective Overlay District No. 100:

1. Uses shall be limited to those permitted by right in the "GO" General Office district plus hotel or motel.

**JOHNSON** moved, **MARNELL** seconded the motion.

**MICHAELIS** "I might ask the maker of motion, because the only real feeling I got here from the neighbors is the fact that they just don't know what they are getting, and Mr. Fitch indicated that he would be happy to share that with them. Is there some way to tie a site plan in with this?"

**JOHNSON** "I think he has made the offer and it is public record that he made that offer and I think it would hurt Wesley badly if he didn't do that."

**MICHAELIS** "That's true."

**JOHNSON** "The reason I don't want to do it is that I don't want 50 or 60 people deciding what color of brick ought to be on it and then hold this up because they can't decide. That is the only reason I wouldn't do it, but I think it is a good idea."

**WARREN** "I am going to support the motion, and I, like Commissioner Johnson has some reasons for this. First, I would like to tell the people out here that we appreciate your coming because that input does affect our decision. There is no doubt about it. This is one of the most unusual case we have had since I have been on the Commission where we have the department recommending approval and the Department Head obviously being opposed. That makes it quite unique. Basically, I am going to support it because we have two issues here. They go pretty deep into conversation, but the basic issues are is this a proper place for 'LC' zoning, and I would say you bet. In fact, the City lost a case not very long ago because a judge said 'look at it. It is Limited Commercial zoning all around it. If you can't see that you are blind'. And I would say that about this. This is an 'LC' zoning area, so I don't even think we have any justification not to grant the 'LC'. The 'LC' with the Protective Overlay just makes it even more so.

On the vacation of the streets, actually, I don't think that we are hurting anything because they are still going to be open for traffic the same as they are now. So we have two issues. One, are we going to zone this 'LC'; and two, are we going to vacate those streets. I think both of them are reasonable requests which would be awfully hard to deny. As far as the parking and things like that, those are going to come down the pike later and they are going to deal with that, probably through the BZA or through some kind of an administrative adjustment."

**GAROFALO** "I think I am going to support the motion, but I was wondering if the Wesley people cannot provide enough parking that they could eliminate some of that parking on the street. That seems to be one concern with people who may be going to be using the park. I was just wondering, if you have to meet the ordinance on parking, perhaps you could eliminate some of the parking on the north side of the street."

**EWY** "If I may address that. Everything in that plan is conceptual. Obviously, that illustrates an effort by Wesley to move south with the parking to not encroach into the park as was mentioned considerably over the course of these hearings. I think there was a comment made and I think, just for the record, there is no parking being reduced. We will be providing our code required amount of parking. The manner in which we provide that parking is three-fold: Onsite, within the vacated street right-of-way, and third, by the use of an off-site parking agreement, all which occurs today. The Ronald McDonald house just stated that they are operating by meeting their parking requirement through the use of off-site parking agreements.

So it is not that we are getting away from our required number of parking stalls, it is just the manner in which we can accommodate that. I think understanding the context of that hotel within the larger shadow of the hospital is not unreasonable to assume that we will be able to do that."

**GAROFALO** "If it is possible to eliminate that, especially on the north side, I think that would be appreciated by everyone."

**EWY** "And if we need to eliminate that along the north right-of-way line, then that is something the City is going to be negotiating with the Wesley people when they look at that issue. So if there is a problem and the City does not wish to grant that parking, then yeah, we will go to an alternative layout."

**HENTZEN** "I would like to call the question. We have a motion on the floor and a second and now we are trying to



negotiate somebody.”

**MOTION:** That the question be called.

**HENTZEN** moved, **WARREN** seconded the motion, and it carried.

**VOTE ON THE ORIGINAL MOTION:** The motion carried with 8 votes in favor (Hentzen, Marnell, Coulter, Johnson, Warren, Anderson, Garofalo, and Michaelis) and 1 in opposition (Barfield). McKay abstained. Bishop, Blake, Warner and Wells were not present).

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**6/1. VAC2001-00024** - Request to vacate Rutan Avenue and its Right-of-Way & Edgemont Avenue and its Right-of-Way.

**APPLICANT:** Wesley Medical Center LLC & Doug Maryott

**AGENT:** Baughman Company PA

**LEGAL DESCRIPTION:** That part of Rutan Avenue lying north of the north right-of-way line of Central Avenue to the north right-of-way line of Edgemont Avenue, as extended to the west, together with the part of Edgemont Avenue lying east of the right-of-way line of Rutan Avenue thence east to a point 100 feet west of the center line of Vassar Avenue described as follows: Beginning at the southwest corner of Lot 1, Wesley Endowment Addition, Wichita, Sedgwick County, Kansas; thence north 287.75 feet to the northwest corner of Lot 3, Wesley Medical Center Second Addition, Wichita, Kansas; thence east along the north line of said Lot 3, 255.84 feet to the northeast corner of said Lot 3; thence north perpendicular to the north line of said Lot 3, 60 feet to a point on the north right-of-way of Edgemont; thence west along the north right-of-way line of Edgemont 315.84 feet more or less, to a point on the east line of Lot 2, Wesley Medical Center 2<sup>nd</sup> Addition, Wichita, Sedgwick County, Kansas; thence south along the west right-of-way of Rutan Avenue to appoint 50 feet north of the south line of the SW ¼ of Sec. 14, Twp. 27-S, R-1-E of the 6<sup>th</sup> P.M. Sedgwick County, Kansas; thence east perpendicular to the west right-of-way line of Rutan Avenue, 60 feet to the beginning. Generally located northeast of Central Avenue - N Hillside intersection.

**REASON FOR REQUEST:** The applicant proposes to develop the roads and their ROW with the applicant's abutting properties into a motel.

**CURRENT ZONING:** Subject properties are public roads. Property to the north is zoned TF-3 Two Family. Property to the east is zoned GO General Office. Property to the south is zoned GO General Office and B Multifamily. Property to the west is zoned GO General Office and LC Limited Commercial.

The applicant is requesting consideration to vacate Rutan Avenue and its Right-of-Way & Edgemont Avenue and its Right-of-Way. The applicant proposes to keep the roads open as private drives and to use for the development of a motel and its parking. The section of Rutan that the applicant proposes to vacate runs north of Central Ave approximately 347.75-ft to its L-shaped intersection of Edgemont Ave. From this intersection and going east the applicant proposes to vacate approximately 315.84-ft of Edgemont Ave. The vacation request for Edgemont does not go all the way to the Edgemont – Vassar Ave intersection but stops approximately 70-ft short of Vassar, making Edgemont a dead-end road heading west from Vassar. Rutan Ave, at this location, does not connect with any other public streets besides Central (to the south) and Edgemont (to the east). The Wesley Medical Complex and Sleepy Hollow neighborhood City Park end Rutan on the north would prevent any northern extension of Rutan in the future to Murdock St. A portion of Rutan (section north of the Edgemont – Rutan intersection) was vacated August 20, 1974, at the Request of the Board of Park Commissioners and Wesley. Neither Rutan nor Edgemont serve as Collector streets as this location. With the exception of the park north of Edgemont, access for abutting property owners is not an issue, but Edgemont would dead-end before coming to Lots 29, 30, & 31, Blazer's Addition at its Vassar intersection. Future extension of Edgemont to the west would be prevented by the existing Wesley Medical Complex. Current development around the roads at this location is primarily related to the Wesley Medical Complex and related medical services.

VAC2001-00024 was deferred at the June 14, 2001 Subdivision Committee meeting for 30 days.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
4. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time May 31 2001, which was at least 20 days prior to this public hearing.
  5. That no private rights will be injured or endangered by the vacation of the above-described roads and their right-of ways and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- C. Therefore, the vacation of the roads and their right-of-ways described in the petition should be approved subject to the following conditions.
1. Defer the vacation of Edgemont until the ownership of the Park abutting Edgemont is determined to be either the City or the Park Commission.
  2. Retain Rutan as a utility easement.
  3. Post signs advertising Rutan as a private drive.
  4. When and if Edgemont is vacated retain it as a utility easement and post it as a private drive.
  5. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
  6. All improvements shall be according to City Standards.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

1. Vacate both Rutan and Edgemont.
2. Retain both Rutan and Edgemont as utility easements.
3. Post Rutan and Edgemont as private drives.
4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
5. All improvements shall be according to City Standards.

**MICHAELIS** "Is there anyone here wishing to speak on this item? Does the applicant wish to add anything else? I will entertain a motion on this item."

**MOTION:** That the proposed vacation of the street be approved.

**WARREN** moved, **COULTER** seconded the motion, and it carried unanimously (11-0).

10. **Case No. ZON2001-00041** – Otis W. and Charlotta M. Beardon (owners) request zone change from "SF-5" Single-Family Residential to "NO" Neighborhood Office zoning on property described as:

Lot 16, Block C Westview Addition to Wichita, Sedgwick County, Kansas. Generally located 110 feet (one lot) south of Douglas on the west side of Ridge Road (109 S. Ridge Road).

**DALE MILLER**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

The applicant is requesting "NO" Neighborhood Office on a .44 acre platted lot along the west side of Ridge Road, located one lot south of Douglas, between Douglas and Maple. The property is currently zoned "SF-5" and developed with a single-family residence. The owners intend to redevelop the property as an office, and move to a different home.

The application area is located toward the north end of a string of eight similarly sized lots, each with typical single-family residential structures. The property three lots to the south was re-zoned from "SF-5" to "NO" in 2000, two single family houses are between this "NO" property and the application area. The "NO" property three lots to the south has a protective overlay requiring residential character construction and limits on building height, signage, points of access, and lighting. Also, the property abutting the application area to the north serves as an insurance office; this lot was rezoned to "BB" office district in 1983.

The property across Ridge to the east is zoned "SF-5" but is developed with the Maple Ridge Apartments, a 168 unit garden apartment complex. It is part of DP-42 Willow-Esque Residential C.U.P.

The proposed conversion of the property to office use would entail providing off-street parking and screening in accordance with the zoning code. Compatibility setbacks would not be required if the conversion does not involve new construction. Similarly, the Landscape Ordinance would not be triggered unless the increased value after conversion to the residential use was more than 50 percent of the original improvements.

**CASE HISTORY:** The property was platted as the Westview Addition on May 16, 1952.

**ADJACENT ZONING AND LAND USE:**

NORTH: "GO;" "SF-5"	office, residences
SOUTH: "SF-5;" "LC"	residences, restaurants, retail
EAST: "SF-5"	multi-family apartments
WEST: "SF-5"	single-family residences

**PUBLIC SERVICES:** The property is located along Ridge Road, a four-lane arterial street. The traffic count for year 2000 was 20,026 cars per day (ADTs) between Maple and Central. The projected traffic volume for 2030 is 26,484 cars per day. No street projects are included in the C.I.P. The property has one drive entrance onto Ridge Road. The existing half-width right-of-way for Ridge is 50 feet.

The property currently has an eight-foot utility easement running along the rear of the property.

Public water and sewer services are available.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide" of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this property as "high density residential."

"Office Locational Guidelines" of the Comprehensive Plan include (1) being located adjacent to arterial streets; (2) having local, service-oriented offices incorporated within or adjacent to neighborhood and community scale commercial development, and (3) having low-density office use as a transitional land use between residential uses and higher intensity uses.

**RECOMMENDATION:** The purpose of the "NO" Neighborhood Office district is to accommodate very low intensity office development generally appropriate near residential neighborhoods. The Comprehensive Plan "Wichita Land Use Guide" designates this property as high density residential. Single-family residential uses abut this site to the south and west; although office uses, multi-family apartment uses, and commercial uses are also adjacent to or near this property. The character of the non-single family residential land uses near this property, coupled with its location along a major arterial with a significant traffic volume, argues that small-scale office use with a residential character may be a reasonable alternative to the current single-family use. So long as the property maintains a residential design, provides ample compatibility setbacks and landscape buffers, and provides adequate parking, the effect of an office use on adjacent single-family residences should be minimized. Also, staff recommends that a change in zoning require the current eight-foot utility easement to be increased with a two-foot dedication, bringing the utility easement to the current ten-foot standard.

Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the mentioned two-foot utility easement dedication and the following Protective Overlay.

1. The property shall be developed and/or redeveloped with a building that has a residential character, and that includes brick, masonry, wood or composite siding; a double-pitched roof with a minimum vertical rise of 4 inches for every twelve inches; and a maximum height of 25 feet.
2. Freestanding signs shall be monument-type with a maximum height of 8 feet.
3. The property shall be restricted to one point of access onto Ridge Road. If in the future, the abutting lot to the south also converts to a non-residential use, the property owner may be required to pay all costs to modify or close the driveway, to pay one-half the cost of reconstructing the driveway, and to modify the off-street parking area, as required by the Traffic Engineer, in order to allow joint access and cross lot circulation.
4. Lighting shall conform to lighting standards in Sec. IV -B.4 of the Unified Zoning Code and be limited to no more than 14 feet in height.
5. Landscaping shall be provided that is equivalent to a landscaped street yard, parking lot landscaping and screening along Ridge Road, and a buffer along the property lines adjoining a residential district, as required in the City of Wichita Landscape Ordinance. A Landscape Plan shall be submitted to the Director of Planning for approval prior to the issuance of a building permit.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property adjoining the application area to the north is zoned "GO" and is used as an insurance office. The property across Ridge to the east is zoned "SF-5" but developed with garden apartments. A property 265 feet to the south is zoned "NO" and is used as an office. The character of the property surrounding the application area, along Ridge Road, is becoming less desirable for traditional single-family homes due to road improvements and resulting increased traffic volume. As a result, more intensive zoning has been approved in this area.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used for a single-family residence. However, similarly situated property owners have increasingly sought approval for more intense uses.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: So long as the property is developed with strong site development requirements to mitigate the impact of parking, lighting, and maintain the residential character of the structure, the impact on surrounding residences should be reduced. The effect of approving this request for "NO" might be to encourage adjacent residences to seek a similar approval.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested change in zoning classification is not in conformance with the Wichita Land Use Guide. It is in conformance with the purpose of the "NO" district as a very low-intensity office use that is compatible with nearby residential use, so long as site design compatibility requirements are included in the approval.
5. Impact of the proposed development on community facilities: The main impact would be to increase turning movements at the mid-block location on Ridge Road. Planning for future access management as this frontage redevelops will help minimize the number of traffic conflicts and accidents.

**MILLER** "This is a request for a zone change to 'NO' Neighborhood Office from its current zoning of 'SF-5' Single-Family. It is approximately half an acre in size and is located west of Ridge and south of Douglas as you can see on the aerial.

The owners intend to redevelop the property as an office and they anticipate that they will move to a different home. This application area is in a string of eight similarly sized lots, each with typical single-family residential structures. Three lots to the south of this was rezoned from 'SF-5' to 'NO' last year. There are two single-family houses between this 'NO' property and the application area, the one that we did in 2000 and the current one that is under consideration. The property three lots to the south has a Protective Overlay on it and it requires residential character if there is any new construction in the future. It limits building height, signage, point of access and lighting.

This property is served by all public services and has a four lane arterial in front of it. We are recommending approval on this particular request, subject to a Protective Overlay that is similar to the one that is three lots to the south. If you have any questions, I will try to address those."

**MICHAELIS** "Are there any questions of staff?"

**GAROFALO** "I have one clarification. On Page 2 of the staff report, you say that the property three lots to the south—and you just mentioned that—were rezoned 'SF-5' to 'NO' in 2000. Then down here in 'Adjacent zoning and Land Use', you say "SF-5" "LC" residences, restaurants, retail."

**MILLER** "I didn't write this report, but I think what Jess was trying to do was pick up stuff that was further down, maybe, because here is the 'LC' and there is the 'NO'."

**GAROFALO** "Oh, okay."

**MICHAELIS** "Are there any further questions of staff? If not, may we hear from the applicant, please? Is there no applicant?"

**OTIS BEARDEN** "I own the property at 109 South Ridge Road. My wife and I are at an age where it is time to get out of this busy zone. We are building a house that is near completion in the inner-city, and we want to put 109 South Ridge Road up for sale. The area it is located in is no longer suitable for residential use—there is too much noise, too much overheat or air traffic, and there are 20,000 cars per day in front of the place.

We have General Office next door to the north, and we have commercial development to the south and Neighborhood Office in between. We feel like that the redevelopment of this property for Neighborhood Office use is the best use for it and we would like to have it rezoned to Neighborhood Office. Thank you."

**MICHAELIS** "Are there any questions of the applicant? Thank you, sir. Is there anyone else in the audience wishing to speak in favor of, or in opposition to this item? Seeing none, I will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The property adjoining the application area to the north is zoned "GO" and is used as an insurance office. The property across Ridge to the east is zoned "SF-5" but developed with garden apartments. A property 265 feet to the south is zoned "NO" and is used as an office. The character of the property surrounding the application area, along Ridge Road, is becoming less desirable for traditional single-family homes due to road improvements and resulting increased traffic volume. As a result, more intensive zoning has been approved in this area. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used for a single-family residence. However, similarly situated property owners have increasingly sought approval for more intense uses. Extent to which removal of the restrictions will detrimentally affect nearby property: So long as the property is developed with strong site development requirements to mitigate the impact of

parking, lighting, and maintain the residential character of the structure, the impact on surrounding residences should be reduced. The effect of approving this request for "NO" might be to encourage adjacent residences to seek a similar approval. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested change in zoning classification is not in conformance with the Wichita Land Use Guide. It is in conformance with the purpose of the "NO" district as a very low-intensity office use that is compatible with nearby residential use, so long as site design compatibility requirements are included in the approval. Impact of the proposed development on community facilities: The main impact would be to increase turning movements at the mid-block location on Ridge Road. Planning for future access management as this frontage redevelops will help minimize the number of traffic conflicts and accidents.) I move that we recommend to the governing body that the request be approved, subject a two-foot utility easement dedication and to the following provisions of Protective Overlay #101.

1. The property shall be developed and/or redeveloped with a building that has a residential character, and that includes brick, masonry, wood or composite siding; a double-pitched roof with a minimum vertical rise of 4 inches for every twelve inches; and a maximum height of 25 feet.
2. Freestanding signs shall be monument-type with a maximum height of 8 feet.
3. The property shall be restricted to one point of access onto Ridge Road. If in the future, the abutting lot to the south also converts to a non-residential use, the property owner may be required to pay all costs to modify or close the driveway, to pay one-half the cost of reconstructing the driveway, and to modify the off-street parking area, as required by the Traffic Engineer, in order to allow joint access and cross lot circulation.
4. Lighting shall conform to lighting standards in Sec. IV-B.4 of the Unified Zoning Code and be limited to no more than 14 feet in height.

**MCKAY** moved, **JOHNSON** seconded the motion, and it carried unanimously (11-0).

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11. **Case No. ZON2001-00039** - Daniel Loyd (owner); Greg Ferris (agent) request zone change from "SF-5" Single-Family Residential to "NO" Neighborhood Office zoning, on property described as:

Lot 1, Block B, Westwood Heights First Addition, an Addition to Sedgwick County, Kansas. Generally located west of Ridge Road and south of Bittersweet Lane (1935 N. Ridge Road).

**JESS MCNEELY**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

The applicant is requesting "NO" Neighborhood Office on an .80 acre platted lot located along the west side of Ridge Road, and south of Bittersweet Lane. The property is currently zoned "SF-5" single-family residential and developed with a single-family residence. The owner currently rents the property. The owner intends to use the existing residential structure for an office use. The property has one drive entrance onto Ridge Road and one onto Bittersweet Lane.

The application area is located in a string of seven similarly sized residential lots facing Ridge Road. "LC" Limited Commercial zoning exists approximately 925 feet to the north, at the intersection of Ridge and 21<sup>st</sup> Street N. "TF-3" Two family zoning exists approximately 525 feet to the south on Ridge Road. The county owned property across Ridge to the east is zoned "SF-5" but developed with a county park; a pedestrian/bicycle path sits directly east of the application area.

**CASE HISTORY:** The property was platted as Westwood Heights 1st Addition in Sedgewick County on July 12, 1960. In 1990 the same property requested a zone change from "R-1" Suburban Residential to "BB" Office District; the MAPC recommended denial and the County Board of Commissioners denied the request.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-5"	single-family residences
SOUTH:	"SF-5"	single-family residences
EAST:	"SF-5"	county park
WEST:	"SF-5"	single-family residences

**PUBLIC SERVICES:** The property is located along Ridge Road, a four-lane arterial street. The traffic count for year 2000 was 14,081 cars per day (ADTs) between 13<sup>th</sup> and 21<sup>st</sup>. The projected traffic volume for 2030 is 16,790 cars per day. No street projects are included in the C.I.P. The property has one drive entrance onto Ridge Road and one onto Bittersweet Lane. The existing half-width right-of-way for Ridge is 50 feet.

The property is served with sanitary sewer, but is not served with municipal water.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide" of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this property as "low density residential."

"Office Locational Guidelines" of the Comprehensive Plan include (1) being located adjacent to arterial streets; (2) having local, service-oriented offices incorporated within or adjacent to neighborhood and community scale commercial development, and (3) having low-density office use as a transitional land use between residential uses and higher intensity uses.

**RECOMMENDATION:** The Comprehensive Plan "Wichita Land Use Guide" designates this property as low density residential. Single-family residential uses border this site to the north, south and west, and open space/park uses are to the east. Introduction of the neighborhood office district at this location would permit a wider range of uses that are not in character with adjacent zoning districts and uses, a change in zoning would likely have a detrimental effect on adjacent residential properties, and a change in zoning would trigger requests for more zoning changes along this stretch of Ridge Road. Therefore, it is recommended that this zone change request be DENIED. But, if in the opinion of the MAPC this zoning change request is appropriate for this location, the planning staff recommends approval only under the conditions of a protective overlay (PO) which would restrict signage, landscaping, screening, parking, vehicular access, and require residential character for any building development/redevelopment.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All property adjoining or adjacent to the application area is zoned "SF-5", each of these properties is used as single-family residences or as open space parkland. The application area is part of a larger area that is entirely residential in character.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used for a single-family residence. Other nearby properties in a similar situation continue to be used for residential purposes. Also, the .80-acre lot could potentially be subdivided into more lots through lot splits or a replat.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: No similar zoning changes have been approved on this section of Ridge Road. A change to office zoning would impact the surrounding residences with increased traffic and a change in neighborhood character. The effect of approving this request for "NO" would be to encourage adjacent residences to seek a similar approval, further increasing traffic and changing the character of the neighborhood.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested change in zoning classification is not in conformance with the Comprehensive Plan "Wichita Land Use Guide". The overarching purpose of the plan's various policies is to promote orderly growth and development by preserving property values, protection from intrusive uses, and enhancement of the quality of life for area residents. This request is not consistent with those goals.
5. Impact of the proposed development on community facilities: While Ridge Road is a five lane arterial road, Bittersweet Lane is a small residential two lane road with small swale storm drainage on both sides, the applicant's property currently has a driveway entrance from Bittersweet Lane. Bittersweet Lane, and its storm drainage system, is not designed for an increase in vehicular traffic, or for any on street parking. Office zoning would increase traffic to the site when compared to single-family residential use.

**MCNEELY** "This case is a zone change from 'SF-5' Single-Family to 'NO' Neighborhood Office, located at 1935 North Ridge Road. The applicant intends to redevelop the single-family property here for office use. As the zoning map illustrates, we have primarily all 'SF-5' zoning surrounding the area. Unfortunately, our zoning map as displayed here—and I have talked with the G.I.S. technicians—is showing that one lot a couple of doors to the north, as well as the county owned property across Ridge Road as 'SF-20', but in fact, the one lot just to the north that is showing as a different color is in the City now and it is 'SF-5', just as the application area.

The zoning across Ridge Road from this application area, as I said is owned by the County and is developed with a county park. The County has park offices just north of there on that property; likewise, they have a 'hike and bike trail' that runs just across Ridge Road from the application area. There is a residence just south and just west of the application area.

In 1990, this property also requested a zone change to an office use from the single-family use. At that time, this property was in the County, and in 1990, the County Commissioners denied that request. Please refer to your staff report findings on Page 3. Staff recommends denial based on those findings. To summarize them briefly, the zone change would be out of character with the residential uses in the area. The property can continue to be used as a single-family residence. A change to Office zoning here would change the neighborhood character at this particular location, and of course would encourage similar zone changes there along Ridge Road and therefore generate more traffic.

A zone change would not be in conformance with the Comprehensive Plan Land Use Guide, and the local facilities, particularly Bittersweet Lane, which borders the application area to the north. That facility is not designed for an increase in traffic. Are there any questions of the staff?"

**MICHAELIS** "Any questions of staff? If not, may we hear from the applicant, please?"

**GREG FERRIS** "Mr. Chair, members of the Planning Commission, I represent Dan Loyd, the owner of the property, and this is his request for Neighborhood Office. It is interesting that I hadn't noticed that this case would immediately come after another case which is just down the road from this case. If you will recall the zoning map that was up there before that, other than the property immediately next to it, it is about the same distance to Light Commercial, it is on a major arterial, and the recommendation in that case was 'the purpose of Neighborhood Office district is to accommodate very low intense office development, generally appropriate near residential neighborhoods'. That is, in fact, exactly what we are proposing here.

Staff is correct that over 10 years ago, they tried to zone the property as more of a General Commercial back in the old days when we had less zoning districts and the zoning of Office district was a little more intense than it is in Neighborhood Office. It is very limited. The Neighborhood Office zoning category was put in specifically for this type of an application where you have something that is for residential services, like a doctor or dentists office. You should have a site plan to this property. We have no problem closing the entrance onto Bittersweet. There is plenty of concrete there to accommodate the parking that would be required, and if there isn't, it certainly would not take much to widen one of the driveways to accommodate that. There are already 18-foot driveways and there is plenty of room for parking. We haven't developed that parking plan, but we certainly don't have a problem with that being a recommendation for approval.

As I read through the recommendations of staff, it is always interesting to see—and you know this, you have sat there more than I have—when they had the case before this, which was an appropriate case and should have been accepted, but I don't recall seeing a litany of slides and pictures of what the neighborhood looked like, but indeed behind that, it is a residential area, it is a residential area too, and the zoning is very similar. But here, when they are recommending denial, they want to make sure that that understand that it is residential. It isn't enough to tell you that it is residential. They want to show you because they want to make sure that you have a little different perspective.

I certainly understand why staff would do that; however, this area is on a major arterial—21<sup>st</sup> Street and Ridge is a major intersection. The development north of here on Ridge Road is growing and the traffic volumes on Ridge Road are going to be increasing exceeding over what they currently are today. For anyone to cite traffic as an issue—and certainly if you want to cite Bittersweet we will close it, and traffic no longer becomes an issue because this is an area that is handling 14,000 cars when the area south of here is handling 20,000. So certainly we are not going to put enough traffic on this to make any major impact.

One of the other concerns is that eventually this area will turn into more office zoning. I would contend that eventually it will be Office zoning. This is a major area of traffic. It is a major arterial near a major commercial intersection. It will eventually become Office zoning because that is the appropriate transitional zoning on a major arterial. I would contend that there really are two neighborhoods here. There is the neighborhood along Ridge Road, which, let me tell you, I knocked on doors, and that is a very nice neighborhood. The houses are well-kept, well-groomed, like any neighborhood, some better than others. Some of them are so immaculate that it is incredible. Even along Ridge Road. But eventually, as those people get older and want to sell their properties, or their children want to sell their properties, much like Mr. Loyd, who has now moved out of the area, in the 10 years that he has been trying to sell this property, and his only alternative is to provide as a rental unit. While sometimes he has good renters and sometimes he has bad renters, and that is no more of a benefit to an area that is majorly single-family owned by owner-occupied area than a well-done Neighborhood Office use in this area. So the idea that the zoning and uses of the neighborhood, you have to go beyond just this one little spot and see what is developing around this area, and I don't agree that the character and use of this neighborhood does not allow for this zoning.

I believe the subject use of the property is suitable for the use. Yes, it is suitable, and it is going down more and more every day. He has tried to sell this as a single-family residence since he moved out of here over 11 years ago. We know what happens when the City goes in and widens a two-lane arterial to a four-lane major arterial near a heavily commercial area. What happens is that it is hard to sell residential property along those areas, and that eventually, much like Tyler Road, where the property values have not gone down, where the property values in fact at 17<sup>th</sup> and Tyler, when we zoned that case several years ago, we were told that the property values in that area would plummet, it would cause much distress in the area, and in fact, that has not happened. On Tyler Road, what the natural progression has been is that Office Zoning is beginning to take over Tyler Road to accommodate the area. It is being done well, it looks very good. You have been able to restrict some of the movements in and out and there is nothing negative about what has happened on Tyler Road.

So yes, while there are residences that are on here that may want to remain residences, eventually, some day, this area will develop as General Office. We are not proposing—and you never would approve General Commercial or Light Commercial this far from the intersection—it is very unlikely that that would ever be requested, much less approved. So that argument really isn't a very good one.

It says no similar zoning change has been approved along this section of Ridge Road. Well, along this immediate section that is correct, but you just did one on another section of Ridge Road, you did two or three on another section of Tyler Road, which is one mile exactly to the west of this, so I don't believe that we can say that this will have a detrimental

impact. We are doing it as a regular basis where it makes sense and it is not impacting the area in a negative way. I will concede that this may not concede that this may not conform with the Comprehensive Plan, and as we all know, that doesn't have a major impact because that is a tool, a guideline, and we try to do it, but oftentimes, we aren't able to do that.

And finally, the impact of the proposed development on community facilities. They cite traffic and drainage. We are not going to do anything here that is going to change any of the drainage patterns or anything like that. Obviously, if we did, we would have to get a building permit and would not be allowed to do that. One of the major concerns that staff has is that we are going to access Bittersweet, and we have no problem eliminating any access to the residential street to the north, and requiring all of our access in and out on Ridge Road, which is appropriate for any kind of a use of this type.

I would add one area to this that you obviously didn't know and are going to hear. There is neighborhood opposition to this case. I know that because I sent letters to this area some two months or so ago telling them that this was coming and that we would be glad to meet with them. I did receive a phone call from one lady and she expressed what her concerns were and they were mainly in the areas of property values and would her property values go up and her taxes go up, or would her property values go down and she wouldn't be able to sell it. Those types of things. We discussed that at great length. Then I came at a later date and knocked on several doors in this area and had the opportunity to visit with several of the neighbors. They have signed a petition to oppose this; however, as I discussed the issues with many of the area residents, some of it was based on the fear that they were told that property values were going down, so they felt like they needed to sign the petition. One gentleman said 'hey, the neighbors asked me to sign it, what am I going to do?'.

So there will be neighborhood opposition and some of it is personal. I have learned from discussing the landowner with many of his neighbors. This wasn't the most popular guy in the neighborhood. Evidently, he made some mistakes in the way he developed some property to the west. He also probably didn't operate his own property the way it was the most appropriate and I learned that well after I had accepted him as a client. I learned that those were some of the reasons that the neighbors were signing the petition. It wouldn't be all of them and I won't speak for the neighbors because they certainly have an opportunity to tell you exactly what they think. I will tell you that I completely disagree with the staff report. I believe that this case is no different than the case you just approved. The similarities, to me, are amazing. This area is a major arterial that will eventually develop, and if the reason that you are not going to approve this is that you are fearing that the proper planning will eventually happen in that area, no one is forced to zone their property along that area, but if they so chose, I certainly believe that it would be appropriate. I certainly would be glad to answer any questions that you might have."

**BARFIELD** "What kind of office are we talking about?"

**FERRIS** "Well, we are restricted in the Neighborhood Office to very limited, mainly doctors offices, dentists offices, real estate offices. I don't have the list in front of me. There may be a couple more that can be included in that. And certainly if you want to restrict it with an Overlay, staff has recommended that if you do approve it, that you have this Protective Overlay. We are certainly willing to restrict it to those three uses because those are the groups that have expressed an interest in this property. In fact, as I looked through the Protective Overlay that you approved in the last case, I would say that most of those probably even apply. We don't have a problem with the signage, we don't have a problem with cutting the traffic off, and certainly if you go back to the pictures, you will see that it is landscaped far more than any restriction the City will ever put on a landscaped piece of property. So, mainly doctors, dentists and maybe lawyers could be included in that. Some people really believe that they really will devalue property when you get lawyers in your neighborhood. You can be the judge of that."

**KROUT** "What about zoning consultants?"

Laughter here.

**MICHAELIS** "Are there any further questions of the applicant? Is there anyone else in the audience wishing to speak either in favor of or in opposition to this item?"

**JUNE TINSLEY** "Good afternoon. I am representing my husband and myself. Our property is at 1945 North Ridge Road and is adjacent north to Mr. Loyd's property. These are our reasons for not wanting the spot zoning next door in our neighborhood: 1) Re-zoning would make only one property in the neighborhood more valuable while it would make all of the rest of us property owner's homes have less value. 2) All of our homes are in beautiful condition with nice lawns, shrubs and trees and we would have no problem selling our homes at a reasonable residential price.

This same property at 1935 North Ridge Road was turned down for re-zoning in 1990. Since then, we have spent \$4,000 remodeling our home at 1945 North Ridge Road to make it the home we want to spend the rest of our lives in in a nice, residential area with wonderful neighbors. We have been here for 40 years. The re-zoning is certainly not needed for the good of the community as there are plenty of business properties on north of 29<sup>th</sup> Street on Ridge Road and all along 21<sup>st</sup> Street. Why spot zone one property in the midst of good residential homes? Would any of you be willing to have your neighborhoods spot zoned for a doctor's office, a dental office, a real estate office, and who knows what else, in the future? Just think about that, please. Thank you."

**MICHAELIS** "Are there any questions of the speaker? Thank you, ma'am. Next speaker."



**VERONICA SCHULTE** "I am speaking in opposition to Mr. Loyd's request. I live at 7229 Bittersweet. Mrs. Tinsley made an error, if her husband is correct. They have spent \$40,000 on their house, not \$4,000. They did do a lot to their house.

We are located directly adjacent to Mr. Loyd's property and west. All of the neighbors who received the Notice of Public Hearing regarding zoning case 2001-00039 have signed protest petitions, which I have with me today. I did not lie to any of these people, nor did any of the others who took petitions around. I simply said I was opposed to it. I did not say anything about reduced values to their property at all.

The case before this, Item No. 10 is not completely residential; they have commercial on both sides. I didn't make notes on that, but this is not similar to our neighborhood. A home at 1935 North Ridge is in the middle of a totally residential area. The closest commercial is the corners of 21<sup>st</sup> and Ridge and at 13<sup>th</sup> and Ridge. Changing the zoning on this one property in the middle of a residential area would be the beginning of the degradation of the character of the entire neighborhood.

Furthermore, if the Loyd's thought a change from Residential to Neighborhood Office zoning was desirable, they could have easily accomplished this conversion many years ago when they were the sole owners of all of this surrounding area. One can only suppose that they knew then that a reduction in the zoning to Neighborhood Office would be detrimental to their development of the large subdivision.

Two houses located north of 1945 North Ridge and facing Ridge Road also have sold since Mr. Loyd's first petition. These houses were sold only because the original owners died. They were bought by younger families who seem to enjoy and upgrade their property. At the end of the year 2000, the vacancy rate for office space in this general area was 13.8% per the research at Wichita State University. Many offices have been built since December of 2000 and more are under construction on 21<sup>st</sup> Street, and also further north on Ridge Road. It would appear that there is no shortage of office space in the area.

Mr. Loyd mentions that his parents are no longer able to handle the management of the rental of this property. I say there are many professional agencies in Wichita who could handle all of the details of rental for his property. I have also heard that he has received offers to purchase his property, but probably not for as much money as he could if it were commercial. To me, that is a bit selfish. As Ms. Tinsley mentioned, the request for a change in zoning of the same property was denied 11 years ago. We respectfully request that you recommend denying Mr. Loyd's request today. Thank you for your time and for listening."

**MICHAELIS** "Are there any questions of the speaker? Thank you, ma'am. Mr. Ferris, you have two minutes for rebuttal."

**FERRIS** "Mr. Loyd did own this property many, many years ago, and it was many years ago. He and his family helped develop this area. That was back when Ridge Road was a two-lane county road, not carrying 14,000 cars; probably more like 1,400 cars. It was a wonderful residential area at that time. Since then, this area has exploded, as you are well aware as the Planning Commission. This now becomes, with the development of the park—and it is not just the park however—you have a major complex by the County on the other side of the street, this becomes more of a transitional area. I certainly understand the concerns of the neighbors to the west because they certainly are the area that is being transitioned. That is why we are willing to put the types of restrictions that make this a Neighborhood Office limited to neighborhood-type orientation with no access into the neighborhood or out of the neighborhood.

As you look and see, that area will develop as a transitional area for office and what is hoped is, in good planning, is that it will be developed as an area of transitional neighborhood office. That is what is most appropriate. In the meantime, this house will still be used as single-family. If it is not able to be sold or developed as residential, it will continue to be as a rental. I fear though, as a rental unit, it has—and I will admit that it is not as well maintained as some of the houses in the area would be that are owner-occupied—but an office who must keep up an environment that is conducive to his clientele certainly would have more of an incentive to keep this property in the kind of condition that will enhance the neighborhood than a renter would be for a house that doesn't belong to them.

So I believe that this case is an appropriate case, and I certainly would be glad to answer any questions that you might have."

**WARREN** "Approximately how many square feet are involved in this home?"

**FERRIS** "In the house itself, I believe it is around 2,000 feet. Probably a little less than that. Most of the houses there are in the 1,800 to 2,300 square foot. It is a large lot of .88 acres. I don't believe it could be divided without tearing the house down and then there is no way you could get that kind of value out of that lot if you had to destroy the house."

**BARFIELD** "Mr. Ferris, how far away from 21<sup>st</sup> Street is this house?"

**FERRIS** "Let me see if I can figure that out real quick, Mr. Barfield. About 925 feet to the Light Commercial, so it is probably 1,100 maybe 1,200 feet to the intersection. It is 925 feet to the Light Commercial and then there is some multi-family that is in between there."

**MICHAELIS** "Are there any further questions?"

**GAROFALO** "One of the ladies said that she understood that there had been an offer on this house as a home."

**FERRIS** "Yes. I believe, and it may have been one of the renters. I don't know all of the details of what has transpired in the last 11 years. He has had some offers. They were far under what the property was appraised at, even as residential property."

**MICHAELIS** "Are there any further questions? Okay, we will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (1. The zoning, uses and character of the neighborhood: All property adjoining or adjacent to the application area is zoned "SF-5", each of these properties is used as single-family residences or as open space parkland. The application area is part of a larger area that is entirely residential in character. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used for a single-family residence. Other nearby properties in a similar situation continue to be used for residential purposes. Also, the .80-acre lot could potentially be subdivided into more lots through lot splits or a replat. Extent to which removal of the restrictions will detrimentally affect nearby property: No similar zoning changes have been approved on this section of Ridge Road. A change to office zoning would impact the surrounding residences with increased traffic and a change in neighborhood character. The effect of approving this request for "NO" would be to encourage adjacent residences to seek a similar approval, further increasing traffic and changing the character of the neighborhood. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested change in zoning classification is not in conformance with the Comprehensive Plan "Wichita Land Use Guide". The overarching purpose of the plan's various policies is to promote orderly growth and development by preserving property values, protection from intrusive uses, and enhancement of the quality of life for area residents. This request is not consistent with those goals. Impact of the proposed development on community facilities: While Ridge Road is a five lane arterial road, Bittersweet Lane is a small residential two lane road with small swale storm drainage on both sides, the applicant's property currently has a driveway entrance from Bittersweet Lane. Bittersweet Lane, and its storm drainage system, is not designed for an increase in vehicular traffic, or for any on street parking. Office zoning would increase traffic to the site when compared to single-family residential use.) I move that we recommend to the governing body that the request be denied.

**GAROFALO** moved, **BARFIELD** seconded the motion.

**WARREN** "Yeah. This is one of those no-win situations. I certainly have concern for the folks that are here opposing this, but it is a fact that when you get a street running 14,000, moving to 20,000 cars per day that you are going to start seeing the deterioration of those homes in there. This is a transition-type thing. I don't like to talk about that deterioration, but to not talk about it doesn't make it go away. So, I am going to oppose the motion based on the logic I think the applicant has made here. I think it is good."

**HENTZEN** "Did I hear whether this has been presented to a DAB board?"

**FERRIS** "It goes before the DAB in two weeks."

**HENTZEN** "Okay."

**MICHAELIS** "Is there any further discussion?"

**KROUT** "You could defer your recommendation for two weeks until you hear from the DAB and then you would have their input."

**MARNELL** "Maybe Jess can answer this. The area across the street, is that the County park?"

**MCNEELY** "Yes, sir. That area directly across the street is the County park."

**MARNELL** "How is that zoned?"

**MCNEELY** "It is owned by the County; therefore it is zoned 'SF-20' as illustrated. Its primary use, directly across the street from the application area is a hike and bike trail. It is completely a pedestrian use."

**MARNELL** "I thought in the aerial that you showed there was what looked like a former residence that you said was the park office. Is that not an office use?"

**MCNEELY** "The office use is at the corner, further up toward the 21<sup>st</sup> Street intersection."

**MARNELL** "That isn't an office sitting there?"

**MCNEELY** "This is a 1996 or 1997 aerial photo, so directly across the street from the application area is nothing but open park land and a hike and bike trail."

**MARNELL** "Thank you."

**MICHAELIS** "Is there any further discussion on the motion?"

**VOTE ON THE MOTION:** The motion failed with 2 votes in favor (Barfield and Garofalo), and 8 votes against (Hentzen, Marnell, Coulter, Johnson, Warren, Anderson, Michaelis, and McKay). Blake, Warner, Wells and Bishop were not present.

**SUBSTITUTE MOTION:** That the request be approved, subject to a two-foot utility easement dedication, and the following provisions of Protective Overlay No. 102:

1. The property shall be developed and/or redeveloped with a building that has a residential character, and that includes brick, masonry, wood or composite siding; a double-pitched roof with a minimum vertical rise of 4 inches for every twelve inches; and a maximum height of 25 feet.
2. Freestanding signs shall be monument-type with a maximum height of 8 feet.
3. The property shall be restricted to one point of access onto Ridge Road. The property owner shall dedicate complete access control to Bittersweet Lane. If in the future, the abutting lot to the south also converts to a non-residential use, the property owner may be required to pay all costs to modify or close the driveway, to pay one-half the cost of reconstructing the driveway, and to modify the off-street parking area, as required by the Traffic Engineer, in order to allow joint access and cross lot circulation.
4. Lighting shall conform to lighting standards in Sec. IV -B.4 of the Unified Zoning Code and be limited to no more than 14 feet in height.
5. Landscaping shall be provided that is equivalent to a landscaped street yard, parking lot landscaping and screening along Ridge Road, and a buffer along the property lines adjoining a residential district, as required in the City of Wichita Landscape Ordinance. A Landscape Plan shall be submitted to the Director of Planning for approval prior to the issuance of a building permit.

**HENTZEN** moved, **MCKAY** seconded the motion.

**MCKAY** "The applicant also mentioned limiting it to doctor's offices, dental offices, real estate offices."

**FERRIS** "If you feel compelled to restrict it to that, I don't have a problem with that."

**KROUT** "I don't think that is necessary. You didn't recommend use restrictions on the other parcel."

**VOTE ON THE MOTION:** The motion carried with 8 votes in favor, and 2 in opposition (Garofalo and Barfield).

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12. **Case No. CUP2001-00023 DP-135 Amendment #4** – R.D. Wood and B.J. Wood (applicant/agent); Loan Star Financial Group (owner) requests an amendment to DP-135 to permit the rental of vehicles on property described as:

Lots 25 and 26, Block 1, Williamsburg. Generally located south of 13<sup>th</sup> Street North and east of Oliver approximately 350 Feet.

**DALE MILLER**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicants have developed a self-service storage warehouse on Parcel 3 of the Lambsdale Community Unit Plan (DP-135) located south of 13<sup>th</sup> Street and 400 feet east of Oliver. Parcel 3 is zoned "LC" Limited Commercial; permitted uses include automotive service center as permitted in the "LC" district, shopping center, financial institutions, office, personal services, restaurants (except when carry out is the principal business) and auto leasing if approved by the Board of Zoning Appeals. (When the CUP was approved in 1984, auto leasing was a "use exception" requiring BZA consideration. With the current code, "use exceptions" were converted to either Conditional Uses or CUP amendments reviewed by the MAPC.) The applicant is seeking an amendment to DP-135 to permit "vehicle and

equipment sales / rental" on Parcel 3 as they would like to rent "U-Haul" moving trucks. There may also be an occasional trailer rented as well.

The perimeter of the site is screened either with storage buildings or fencing. The interior of the site is undeveloped. The applicant would like to create a 30-foot by 30-foot paved pad in the northeast corner on the interior of the site on which to park the vehicles. He would like to offer a total of 6 vehicles for rent. Four of the vehicles would be stored inside the screened compound while two would be located out front for display.

The site has 10 parking spaces located at the front of the development with access to 13<sup>th</sup> Street. One of the conditions of approval of Amendment #3 was: "Off-street parking shall be required on the basis of 1 space for each 8,000 square feet of floor area in the facility, plus 1 space for each employee but in no case shall the number be less than 12 spaces." If developed to the degree shown on the 1998 application, 12 parking spaces would be required. Unless the applicant intends to reduce the amount of self-service warehousing for which he is approved, it appears there are not any surplus parking spaces that could be used for display.

Outdoor display in the "LC" district is for merchandise that is for sale within a building may be displayed in areas immediately adjacent to and within 10 feet of the building. No display shall be on public property, no required off-street parking spaces may be used for display and the outdoor display of motor vehicles, rental trailers, rental equipment is not permitted in the "LC" district except as may be otherwise authorized under an appropriate section of the code.

Outdoor storage of merchandise available for sale shall be allowed outside an enclosed building in the "LC" district, subject to the following conditions: the area used for storage shall be enclosed by a fence or wall not less than six feet in height nor less than the height of the merchandise to be screened, the enclosure around the storage area shall be attached to the principal building and not exceed ten percent of the floor area occupied by the principal use unless an amendment specifically allowing up to 20 percent has been approved.

Outdoor vehicle and equipment rental requires a Conditional Use in the "LC" Limited Commercial district and is a permitted use in the "GC" General Commercial, "CBD" Central Business, "LI" Limited Industrial and "GI" General Industrial districts. In the "LC" district outdoor vehicle and equipment rental is subject to the following Supplementary Use Regulations: 1) the site is to be contiguous to a major street, 2) visual screening of areas contiguous to residential zoning districts is to be provided, 3) all parking, storage and display areas shall be paved with concrete, asphalt or asphaltic concrete and parking barriers are to be installed to prevent vehicle encroachment onto public right-of-way, 4) no string type lighting is permitted and outdoor lighting shall employ cut-off luminaries and shall be mounted at a height not exceeding one-half the distance from the neighboring lot (unless this requirement is waived by the Zoning Administrator), 5) no outdoor speakers and sound amplification systems are permitted, 6) no repair work is to be conducted except within an enclosed building, 7) no body or fender work is permitted, 8) no portable, flashing, moving or off-site signs, streamers, banners, pennants, pinwheels, commercial flags, bunting or similar devices are permitted and 9) there shall be no use of elevated platforms for the display of vehicles.

**CASE HISTORY:** DP-135 was approved in 1984. Property was platted as Williamsburg Addition in 1985. Amendment # 2 was approved in 1986. Amendment # 3 which allowed the self-service warehouse was approved in 1998.

**ADJACENT ZONING AND LAND USE:**

NORTH: "TF-3" Twofamily Residential; Single-family residences

SOUTH: "TF-3" Twofamily Residential and "SF-5" Single-family Residential; Duplexes and single-family residential

EAST: "MF-29" Multi-family Residential; Claude Lambe Park, Townhouses

WEST: "LC" Limited Commercial; Automobile service station, auto-parts store

**PUBLIC SERVICES:** All normal public utilities and services are available. Oliver is developed as a four-lane arterial with an average daily traffic volume of 17,643.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide" map depicts this site as appropriate for commercial uses. Commercial development should have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED. If this request were for one or two vehicles to be used strictly by customers of the self-service warehouse and those vehicles were to be screened from view from adjoining property, staff has, in the past, determined such use to be accessory to the warehouse use, requiring only an adjustment to permit the use. However, since this request is for a more intensive full service type rental operation, it requires an amendment to the CUP. If the Planning Commission feels the request is appropriate, it should be subject to the following conditions:

1. Vehicle and equipment rental (no sales of vehicles or equipment is permitted) may be added to the list of permitted uses in Parcel 3. The rental operator must be the same as the owner of the self-storage facility. (The rental operation may not be sub-let to a party that is not also an owner of the self-storage facility.)
2. The maximum number of trucks to be offered for rental shall be 6. The maximum number of trailers to be offered for rental shall be six. All trucks / trailers offered for rent must be stored behind perimeter screening buildings or walls. No display of trucks / vehicles offered for rent is permitted.

3. All truck / vehicle maintenance is to be done within the screening walls. Any equipment related fluids or fuels used on site must be stored and/or disposed in appropriate containers and a manner acceptable to the fire and/or health departments. No body or fender work or vehicle painting or salvage operations are permitted.
4. Signage advertising the vehicle and equipment rental operation is restricted to the same sign used to advertise the self-service warehouse.
5. The development of this property shall proceed in accordance with the development as recommended for approval by the Planning Commission, any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the permit authorizing this use.
6. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
7. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.
8. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 30 days after approval of this amendment, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There are residential uses located north of 13<sup>th</sup> Street and south of the application area. A public park and additional residential uses are located to the east. Commercial uses are located to the west.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial subject to the provisions of DP-135. The site is developed with a self-service warehouse use and could continue to be used as currently restricted. Vehicle and equipment rental requires an amendment to the CUP. From the applicant's viewpoint, equipment rental would be a complimentary use to the self-service warehouse. In staff's view, this parcel is on the edge of the larger commercial corner and should be restricted to less intensive uses to minimize impact and nearby residentially zoned property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will introduce an increased volume of truck traffic and outside display not currently found in the neighborhood.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: If denied, the applicant will experience a loss in potential revenue. If approved, the area would have a rental service that is not currently evident in this area.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide" map depicts this site as appropriate for commercial uses. Commercial development should have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses.
6. Impact of the proposed development on community facilities: Truck traffic would increase somewhat but there should not be any significant impact to community facilities.

**MILLER** "Given the lateness of the hour, I will try to be as brief as possible. This is a request, basically, to allow rental of equipment and vehicles from a site that is currently developed as a self-service storage warehouse. It is located south of 13<sup>th</sup> and a little bit east of Oliver. The applicant currently operates the self-service warehouse and would like to get into, in a limited way, the rental of trucks. They found that that seems to be a compatible use with the warehouse and they have these vehicles moving in and out and that they would park the majority of them on the interior. The site plan is attached to our staff report, but they have indicated is that they would develop an area in the northeast corner inside the compound. This property is developed either entirely with self-service units or there is fencing there so that the entire perimeter of the property is screened. They would develop the northeast corner on the inside of the area as a parking space to store the vehicles. They are also asking for two of the six vehicles to be able to be displayed out front along Oliver in their existing parking area. They are saying that they only want a total of six of these vehicles for rent.

Staff is recommending denial. We feel like this is an introduction of a use in an area that typically doesn't have this kind of use in it. We just feel like it is not consistent with the character or with the intention of what, as far as I know, all of the self-service storage warehouse units in town that have come in strictly as self-service don't have this kind of a use. There may be some that have it that were developed from the get-go that way, but the majority of the more recent requests have not asked for this. We just feel like it would be an intrusion given the situation. It is located on Parcel 3 here. The four units would be stored in approximately this location (indicating) and two would be out front basically as display. There is a park directly to the east and a drainage area.

If the Commission feels that this is an appropriate request, there are some recommendations on Page 4 that you would like to consider. With that, I would try to answer any questions."

**BARFIELD** "You mentioned the display on two vehicles on Oliver. Did you mean on 13<sup>th</sup>?"

**MILLER** "I'm sorry, if I said Oliver, I meant 13<sup>th</sup> Street."

**WARREN** "Is that south entrance emergency only?"

**MILLER** "They are indicating yes."

**WARREN** "It is not generally open to the public then."

**MICHAELIS** "Are there any further questions of staff? May we hear from the applicant, please?"

**R.D. WOOD** "I am the owner and operator of the storage facility. It is a family owned and operated company. I might clarify about rental trucks at other storages—there are several. As a matter of fact, almost all of the public storages in Wichita has Ryder trucks at their facilities, and U.S. Storage—Mr. Anderson has Ryder trucks at his facilities and probably his most successful location is at 96<sup>th</sup> and Rock Road. That storage and most of his storages has rental trucks. What rental trucks does is help to subsidize, especially a brand-new facility, getting it off of the ground because of the overhead and until it is filled up. What I have found out about U-Haul, there isn't a U-Haul center or another U-Haul dealer within 4 to 5 miles, that I know of, to 13<sup>th</sup> Street and Oliver.

About 20% of the customers will use those vehicles if they need them, but most of the business comes from the surrounding community, especially around 13<sup>th</sup> and Oliver. It is well-priced and the trucks, by no means are big semis. The biggest truck we have is a 14-footer, that is actually 2 feet longer than a full-sized pick-up truck. U-Haul measures from the front of their cab because they have an overhang over the top of the cab and they use that as their measurement. The biggest truck we have on the facility is 14 foot, and most of the time it is 10-foot trucks. That is almost like a mid-sized pick-up. I don't believe it hinders traffic.

Most of our activity is on a Thursday, they pick them up of a morning and generally don't return them until late Saturday or Sunday, so it doesn't add any more congestion to the facility because we generally only have about 10 customers on the facility during the day. Most of those customers are either inside the compound or stop off to make a payment or rent a unit. They are probably there less than 5 minutes. If I can address any other questions for you, I would be more than happy to."

**BARFIELD** "Sir, you mentioned that Anderson does lease these types of trucks. I believe he also does that from his 21<sup>st</sup> Street location. You mentioned the fact that the nearest dealer was about 4 miles away. Are you aware that he does that there?"

**WOOD** "But not U-Hauls; he does Ryder."

**BARFIELD** "Well, yeah.."

**WOOD** "And I don't know if he does that there. Are you talking about the location there on 21<sup>st</sup> between Woodlawn and Oliver?"

**BARFIELD** "Yes."

**WOOD** "I am not aware that he does do that there. I do know that he does at the one near 96<sup>th</sup> and Rock Road and another one way out west on 21<sup>st</sup>."

**BARFIELD** "Were you at the DAB meeting the night this was discussed?"

**WOOD** "No, sir, regrettably. I was at a funeral. I generally don't miss those meetings because I definitely like talking to the community before I go do anything.

When I built this facility here—as a matter of fact, we opened a year ago—I went to that meeting and unfortunately I couldn't get anybody from the neighborhood to come to express concerns or give me an opinion of what they would like to see happen. I can express that the customers that I do have at 13<sup>th</sup> and Oliver, 80% of them are residential people and the other 20% are lawn services, carpenters, self-employed people, and several well-known companies that stores overflow inventory, which is by far cheaper to rent a storage unit than to go out and build brand-new brick and mortar."

**BARFIELD** "Have you talked to any of the neighbors about this plan?"

**WOOD** "Yes. I have some neighbors in the back that I visit with quite frequently because they help me maintain my trees in the back. They have no problem with it. And several of my customers to the east, on the other side of the park, probably half a dozen of those have utilized the trucks at that location."

**BARFIELD** "When you say to the back, are you speaking of south of 12<sup>th</sup> Street?"

**WOOD** "Yes, sir. On 12<sup>th</sup> Street. My other neighbors next to me is Auto Zone and then kitty cornered across the street is O'Reilly's."

**BARFIELD** "Over on the north side of 13<sup>th</sup> Street it is pretty residential."

**WOOD** "Yeah, kitty cornered to the northeast of me is residential."

**MICHAELIS** "Are there any other questions of the applicant? Thank you, sir. Is there anyone in the audience wishing to speak in favor of or in opposition to this item? Seeing none, we will bring it back to the Commission."

**WARREN** "I have a question. Are we talking about just amending the CUP or are we talking about a Conditional Use here?"

**MILLER** "It is an amendment is all. We don't do CUs with CUPs."

**WARREN** "If you were to amend that CUP favorably to this application, then could you limit it to certain sized trucks—to one or two, or what?"

**MILLER** "Yes. We can specify the maximum number of units or trucks that should be on the site and we can specify maximum length if you want to."

**WARREN** "Could I ask the applicant a question? Generally speaking, what would be the smallest truck?"

**WOOD** "Ten foot. You have to bear in mind that U-Haul counts what is on top of the cab. So generally it is a 7-foot truck. It is like a Toyota truck."

**WARREN** "Okay, but this truck becomes effectively a billboard, doesn't it? It becomes a sign."

**WOOD** "Yes, sir. And being around U-Haul for the last several months, I will have to admit that they keep their equipment in great shape."

**WARREN** "Okay. What other identification would you have on site that would let people know that you are, in fact, a leasing agent?"

**WOOD** "None. Because of what I also found is that about 100% of all of our customers is done on the phone. They want to check prices, etc. I would say 99% of all of our business is phone driven. Taken right out of the phone book. The only reason I am requesting the two out there is because half of the customers are women, but we get them backed in so all they have to do is just drive them out and I don't have to worry about them running over anybody."

**HENTZEN** "I want to ask Dale a question. The other places that do the same thing in the city, what type of zoning do they have?"

**MILLER** "Well, if they are doing it outright, they must have 'GC' zoning in order to do this outright. Otherwise, they would have to come in and either get a Conditional Use in 'LC', or there has been an interpretation that allows them, if there is only one or two vehicles, they have been doing them as adjustments. When there is only one or two, they have considered them an accessory to the use, so if you just had one or two vehicles that you were doing to loan to your customers, they have been allowing them on an adjustment basis. But when you are getting up to more than one or two, that is what is triggered either the rezoning or the amendment."

The particular set of recommendations that are here would limit him to six. We didn't specify anything to do with lengths, but if you did adopt what is in here, it does limit him to the six that he requested. The one thing that is also in there that you may want to discuss in detail is that this would not allow him, the way it is written today, if you accepted it whole cloth is that it doesn't allow him to have the two vehicles out front. It says that they all have to be back behind. We felt like basically the two vehicles are just acting as signs—giant signs."

**HENTZEN** "What I am trying to find out is (unable to hear) letting them do it. There are quite a few of them."

**MILLER** "Well, like I say, and you have been here long enough to see that most of the ones that are coming in are coming in in either Office zoning or 'LC' with a Conditional Use. It is not a permitted use unless it is specifically asked for, and they have not been asking for it. The one that he references, I think that was done even before I was here. I think it is that old. Probably on North Rock Road it is 'GC' zoning."

**MCKAY** "Dale, let me see the picture of the front of his complex again. The reason why I wanted to see that, according to the applicant, he is going to locate the trucks on that piece of property right there. Just park them there. Is that what you said?"

**MILLER** "What he is proposing is that he would have a total of six vehicles. Four of them would be behind this set of storage units, but he would keep two of them out here in the parking area. They would be parked out in front. Basically, that is just like a sign."

**MCKAY** "My next question is, based on the square footage of his project, is he at the maximum on his signage?"

**MILLER** "I don't know that."

**WOOD** (From audience) "There was a special clause rolled into that CUP at the time."

**MCKAY** "I didn't see any signs, that is why I was asking."

**WOOD** (Indicating) "Right there."

**MOTION:** I move that we recommend to the governing body that the request be approved, subject to the staff comments, and further restricted to 1 unit on the outside of his perimeters; that unit being limited to a 10-foot unit. That he be limited to a total of 6 units, including that 1 unit and with no unit to be in excess of 14 foot.

**WARREN** moved, **COULTER** seconded the motion.

**BARFIELD** "Are we limiting the size of the vehicles that he can utilize at this facility? The motion was to limit the size he can display."

**WARREN** "No, I said that he could display only one that is not to exceed 10 foot, and he can have 6, but none of them could exceed 14 foot."

**BARFIELD** "I think that if we are going to approve that, it might be a bit unfair because in all of the locations that I have seen where they did display, they displayed various sizes. At least two sizes. I think if we are going to disprove this and allow him to display at all, I think he ought to have the right to display at least two different sizes."

**MARNELL** "It seems to me like the applicant himself said that almost all of the business is transacted over the phone, and it would seem like putting those trucks out there, no matter what the size, it is just adding signage. I am going to make a substitute motion."

**SUBSTITUTE MOTION:** Having considered the factors contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: There are residential uses located north of 13<sup>th</sup> Street and south of the application area. A public park and additional residential uses are located to the east. Commercial uses are located to the west. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial subject to the provisions of DP-135. The site is developed with a self-service warehouse use and could continue to be used as currently restricted. Vehicle and equipment rental requires an amendment to the CUP. From the applicant's viewpoint, equipment rental would be a complimentary use to the self-service warehouse. In staff's view, this parcel is on the edge of the larger commercial corner and should be restricted to less intensive uses to minimize impact and nearby residentially zoned property. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will introduce an increased volume of truck traffic and outside display not currently found in the neighborhood. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: If denied, the applicant will experience a loss in potential revenue. If approved, the area would have a rental service that is not currently evident in this area. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide" map depicts this site as appropriate for commercial uses. Commercial development should have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses. Impact of the proposed development on community facilities: Truck traffic would increase somewhat but there should not be any significant impact to community facilities.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. Vehicle and equipment rental (no sales of vehicles or equipment is permitted) may be added to the list of permitted uses in Parcel 3. The rental operator must be the same as the owner of the self-storage facility. (The rental operation may not be sub-let to a party that is not also an owner of the self-storage facility).
2. The maximum number of trucks to be offered for rental shall 6. The maximum number of trailers to be offered for rental shall be six. All trucks / trailers offered for rent must be stored behind perimeter screening buildings or walls. No display of trucks / vehicles offered for rent is permitted.
3. All truck / vehicle maintenance is to be done within the screening walls. Any equipment related fluids or fuels used on site must be stored and/or disposed in appropriate containers and a manner acceptable to the fire and/or health departments. No body or fender work or vehicle painting or salvage operations are permitted.



4. Signage advertising the vehicle and equipment rental operation is restricted to the same sign used to advertise the self-service warehouse.
5. The development of this property shall proceed in accordance with the development as recommended for approval by the Planning Commission, any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the permit authorizing this use.
6. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
7. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.
8. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 30 days after approval of this amendment, or the request shall be considered denied and closed.

**MARNELL** moved, **GAROFALO** seconded the motion.

**WARREN** "Is the motion to deny all outside display?"

**MARNELL** "Yes."

**WARREN** "You're tough!"

**MICHAELIS** "Is there any further discussion on the substitute motion?"

**JOHNSON** "I am going to support the substitute motion. He made a comment about all of the negotiating being done over the phone, so I don't see any sense in having any trucks sitting out there. He has a very nice looking facility and I don't think a U-Haul truck is going to enhance it at all."

**VOTE ON THE SUBSTITUTE MOTION:** The motion carried with 9  
votes in favor, and 1 in opposition (Barfield).

**MILLER** "Just for clarification—he says that occasionally trucks are returned at 7:00 or 8:00 o'clock at night and left out in front and then he gets them in the morning. I told him that was not considered display."

**MICHAELIS** "Right."

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13. **CON2001-00037** — John P. and Ruth A. Strunk (Owners); Verizon Wireless c/o Kent Sticha (Applicant); Selective Site Consultants, Inc. c/o Robert M. Herlihy (Agent) requests a Conditional Use for a wireless communication facility, located north of 21<sup>st</sup> Street North and east of 151<sup>st</sup> Street West, described as:

Beginning at the Southwest Corner of the Southwest Quarter of Section 2, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas; thence East 693 feet; thence North 393.4 feet to a point of beginning; thence East 100 feet; thence North 125; thence West 100 feet; thence South 125 feet to the point of beginning. Generally located north of 21<sup>st</sup> Street North and east of 151<sup>st</sup> street West.

**SCOTT KNEBEL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

The applicant is seeking a Conditional Use to permit the construction of a 150-foot high monopole tower (see attached "Tower Elevation") for use by Verizon Wireless. The proposed site is zoned "SF-20" Single-Family Residential. Wireless Communication Facilities over 65 feet in height in the "SF-20" Single-Family Residential zoning district may be permitted with a Conditional Use.

The character of the surrounding area is agricultural. The nearest properties not owned by the applicant that are developed with residential uses are located approximately 800 feet east of the site. The properties surrounding the site in all directions are zoned "SF-20" Single-Family Residential and are used for agricultural purposes. The site is shown on the Wichita Land Use Guide as being located approximately one-quarter mile outside the 10 year Urban Service Area for Wichita. The site also is shown on the Wichita Land Use Guide as being located within the future corridor for the Northwest Bypass.

The proposed tower would be sited on a 5,625 square foot area located north of 21st Street North and east of 151st Street West on pasture land bordered on the north, east, and west by a wooded creek bed. Access to the site is proposed to be via an existing field access drive to 21st Street North. The applicant's site plan (attached) depicts a 75-foot by 75-foot compound with the tower located in the center of the compound. The initial ground-level equipment is shown to located in the western portion of the compound, with sites for additional ground-level equipment shown in the

eastern and northern portions of the compound. The compound is shown as being enclosed by a six-foot high chain link fence. The site plan shows two rows of staggered six-foot high white pines around the outside of the compound.

The applicant indicates that the proposed wireless communication facility is needed by Verizon Wireless to expand the capacity of its wireless phone system in the northwestern edge of the city (see attached letter dated June 4, 2001). The applicant indicates that in the surrounding two-mile area there is a 90-foot high monopole tower that the owner of the tower indicates is designed to be extended in height only to 110 feet (see attached affidavit dated July 21, 2000 and letter dated May 2, 2001). The applicant indicates (see attached affidavit dated June 1, 2001 and propagation plots) that a height of 150 feet is needed to meet their communications needs.

**CASE HISTORY:** The site is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-20"	Agriculture
SOUTH:	"SF-20"	Agriculture
EAST:	"SF-20"	Agriculture
WEST:	"SF-20"	Agriculture

**PUBLIC SERVICES:** No municipally supplied public services are required. The site has access to 21st Street North, a two-lane arterial street.

**CONFORMANCE TO PLANS/POLICIES:** The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The monopole shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- E. A landscape plan shall be submitted for approval by the Planning Director that provides 6-foot high Southwestern White Pines to be planted in accordance with the site plan submitted with the application for the Conditional Use.
- F. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- G. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- H. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- I. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is agricultural, with all properties surrounding the site zoned "SF-20" Single-Family Residential. The nearest properties not owned by the applicant that are developed with residential uses are located approximately 800 feet east of the site. The proposed wireless communication facility is consistent with the agriculture character and uses of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-20" Single-Family Residential and is used as pastureland. The site is separated from the remainder of the owner's

property by a creek bed, thus limiting its usefulness as pasture land due to its limited size. Wireless communication facilities in excess of 65 feet in height in the "SF-20" Single-Family Residential zoning district may be permitted as a Conditional Use, if they conform to the guidelines of the Wireless Communication Master Plan.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The closest properties that are developed with residential uses are single-family residences located approximately 800 feet to the east. The only impact to be noted at the time this report was prepared is the visual impact of a tower, and the visual impact should be reduced by existing mature shade trees planted in hedge rows that partially obscure the proposed tower from view from the residences. Additionally, the residences nearest the site are oriented such that the back of the residential structures face to the west, with the proposed tower to be located northwest of the residences. Finally, the evergreen landscaping proposed by the applicant should reach a mature height of 40-60 feet and further screen the facility from nearby properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to the Location Guidelines of the Wireless Communication Master Plan since there are no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. The proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan by minimizing the height, mass, proportion, and silhouette of the facility through its monopole design; by utilizing an unobtrusive color with a matte finish to minimize glare; by being placed in an area where trees obscure some of the facility; and by being screened through proposed new evergreen landscaping. The proposed wireless communication facility complies with the compatibility height standard of the Uniform Zoning Code since it is located more than 150 feet from the nearest lot line of property zoned "TF-3" or more restrictive.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity.

**KNEBEL** "This is a Conditional Use request for a wireless communication facility. The site is located east of 151<sup>st</sup> Street West, just on the north side of 21<sup>st</sup> Street North. The site is buffered on three sides by a wooded creek area. There is agricultural land all around it; the nearest residences are located to the southeast, approximately 800 feet.

The applicant is proposing to use an existing field entrance, so they wouldn't be adding any entrances to 21<sup>st</sup> Street. They are proposing to buffer the site in addition to having the tree row on three sides. They are proposing to add white pines around the site. I will address that a little bit in a minute."

**MICHAELIS** "Scott, hang on a minute. Is there anyone in the audience that is here to speak in opposition to this item? Okay, since staff is recommending approval and there is no one here to oppose it, I would say that we could just bring it back to the Commission now and maybe we can save some time."

**KNEBEL** "Okay."

**MICHAELIS** "Does anybody have any questions of staff before we do that? Okay."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The character of the surrounding area is agricultural, with all properties surrounding the site zoned "SF-20" Single-Family Residential. The nearest properties not owned by the applicant that are developed with residential uses are located approximately 800 feet east of the site. The proposed wireless communication facility is consistent with the agriculture character and uses of the neighborhood. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-20" Single-Family Residential and is used as pastureland. The site is separated from the remainder of the owner's property by a creek bed, thus limiting its usefulness as pasture land due to its limited size. Wireless communication facilities in excess of 65 feet in height in the "SF-20" Single-Family Residential zoning district may be permitted as a Conditional Use, if they conform to the guidelines of the Wireless Communication Master Plan. Extent to which removal of the restrictions will detrimentally affect nearby property: The closest properties that are developed with residential uses are single-family residences located approximately 800 feet to the east. The only impact to be noted at the time this report was prepared is the visual impact of a tower, and the visual impact should be reduced by existing mature shade trees planted in hedge rows that partially obscure the proposed tower from view from the residences. Additionally, the residences nearest the site are oriented such that the back of the residential structures face to the west, with the proposed tower to be located northwest of the residences. Finally, the evergreen landscaping proposed by the applicant should reach a mature height of 40-60 feet and further screen the facility from nearby properties. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to the Location Guidelines of

the Wireless Communication Master Plan since there are no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. The proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan by minimizing the height, mass, proportion, and silhouette of the facility through its monopole design; by utilizing an unobtrusive color with a matte finish to minimize glare; by being placed in an area where trees obscure some of the facility; and by being screened through proposed new evergreen landscaping. The proposed wireless communication facility complies with the compatibility height standard of the Uniform Zoning Code since it is located more than 150 feet from the nearest lot line of property zoned "TF-3" or more restrictive. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity.) I move that we recommend to the governing body that the request be approved, subject to the following:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The monopole shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- E. A landscape plan shall be submitted for approval by the Planning Director that provides 6-foot high Southwestern White Pines to be planted in accordance with the site plan submitted with the application for the Conditional Use.
- F. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- G. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- H. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- I. Any violation of the conditions of approval shall render the Conditional Use null and void.

**MCKAY** moved, **COULTER** seconded the motion, and it carried unanimously (10-0).

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14. **Case No. CON2001-00035** – Richard D. and Emily M. Frederick (Owners); Verizon Wireless c/o Mark S. Doering and American Tower Corporation c/o Ronald D. Jones (Applicants) request a Conditional Use for a wireless communication facility on property described as:

A 75 foot by 75 foot Lease Area along with a 20 foot wide Access and Utility Easement, situated in the Northeast Quarter of Section 10, Township 26, Range 04 East, Sedgwick County, Kansas, more particularly described as follows:

COMMENCING at the Northeast corner of the Northeast Quarter of said Section 10; thence South 88 degrees 57 feet 45 inches West along the North line of said Section 10, a distance of 1991.06 feet; thence South 01 degrees 03 feet 57 inches East along the East line of the West 660 feet of the Northwest Quarter of the Northeast Quarter of said Section 10, a distance of 810.64 feet thence South 88 degrees 56 feet 03 inches West, a distance of 127.50 feet to the POINT OF BEGINNING of said 75 foot by 75 foot Lease Area; thence South 01 degrees 03 feet 57 inches East, a distance of 75.00 feet; thence South 88 degrees 56 feet 03 inches West, a distance of 75.00 feet; thence North 01 degrees 03 feet 57 inches West, a distance of 65.00 feet to a point hereafter referred to as Point "A"; thence continuing North 01 degrees 03 feet 57 inches West, a distance of 10.00 feet; thence North 88 degrees 56 feet 03 inches East, a distance of 75.00 feet to the POINT OF BEGINNING. Containing 5,625 square feet, more or less.

Together with a 20 foot wide Access and Utility Easement, lying 10.00 feet of each side of the following centerline:

BEGINNING at aforesaid Point "A"; thence South 88 degrees 56 feet 03 inches West, a distance of 117.50 feet; thence North 01 degrees 03 feet 57 inches West, 10.00 feet East of and parallel with the West line of the East 330.00 feet of the West 660.00 feet of the Northwest Quarter of the Northeast Quarter of said Section 10, a distance of 820.79 feet to a point on the South right of way line of East 69th Street as it presently exists, said point being the POINT OF TERMINATION. Containing 18,766 square feet, more or less. Generally located south of 69<sup>th</sup> Street North and west of 127<sup>th</sup> street East (12115 E. 69<sup>th</sup> Street North.

**SCOTT KNEBEL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

The owner is seeking a Conditional Use to permit the construction of a 175-foot high monopole tower (see attached "Elevation View") by American Tower Corporation for use by Verizon Wireless. The proposed site is zoned "RR" Rural Residential. The Unified Zoning Code requires a Conditional Use for wireless communication facilities over 65 feet in height in the "RR" Rural Residential zoning district.

The proposed monopole tower would be sited on a 10,000 square foot area located south of 69<sup>th</sup> Street North and west of 127<sup>th</sup> Street East behind the single-family residence located at 12115 E. 69<sup>th</sup> St. N. (see attached "Site Plan"). The attached "Enlarged Site Plan" shows a compound enclosed with a six-foot high chain link fence with three strands of barbed wire. The tower is located in the center of the compound. The site plan does not indicate the location of ground-level communication equipment within the compound. The site plan shows that access would be provided to the site by a 12-foot wide access drive to 69<sup>th</sup> Street North, an unpaved section-line road. Landscaping is shown in the form of six-foot tall junipers planted every 15 feet around the exterior of the compound.

The character of the surrounding area is that of a rural, large-lot subdivision. All the properties surrounding the site are zoned "RR" Rural Residential and are developed with single-family residences on 5-10 acre lots.

The application indicates that the proposed tower is needed for Verizon Wireless to improve its coverage on Highway 254 (see attached letter dated June 6, 2001 and "Existing" and "Proposed" propagation plots). Verizon Wireless indicates an intention to place their antennas at the 140-foot level on the 175-foot high tower requested to be constructed by American Tower Corporation. No user is identified in the application for the top portion of the tower.

The justification for the request (see attached "Technical Report") indicates that Verizon needs a wireless communication facility within a 1.5 to 2 mile radius of 69<sup>th</sup> Street North and 111<sup>th</sup> Street East (Greenwich). The application indicates that no structures were found within this area; therefore, a request for a Conditional Use to construct a new tower was submitted. Subsequent to receiving the application, planning staff requested information from the applicant regarding whether or not a recently constructed 190-foot high monopole tower near 53<sup>rd</sup> Street North and Rock Road (approximately 2.5 miles from the center of the search area) is suitable to meet Verizon's communication needs. The applicant did not respond to this request for additional information.

The subject property is located in the vicinity of Jabara Airport; therefore, planning staff contacted airport staff to receive their input on the proposed tower. Airport staff indicated that the site could possibly interfere with the proposed construction of an ILS approach; however, the airport staff will not be certain of any negative impacts on the operations of Jabara until the FAA has reviewed the location of the requested monopole. Therefore, the airport staff requested to review the FAA's decision regarding this monopole prior to the issuance of a building permit so that the airport staff may ask the FAA modify their decision if the airport staff feels the FAA has reached their decision in error.

**CASE HISTORY:** The site is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"RR"	Single-family residences
SOUTH:	"RR"	Single-family residences
EAST:	"RR"	Single-family residences
WEST:	"RR"	Single-family residences

**PUBLIC SERVICES:** No municipally-supplied utility services are required. Access to the site is proposed by a 12-foot wide access drive to 69<sup>th</sup> Street North, an unpaved section-line road.

**CONFORMANCE TO PLANS/POLICIES:** The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

**RECOMMENDATION:** Planning staff finds that the proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. First, the proposed facility does not utilize existing towers in the area. There is an existing tower located approximately 2.5 miles southwest of the center of the applicant's search area.

The applicant indicates that a facility within 1.5 to 2 miles of the center of the search area will meet their communication needs. The applicant did not respond to a request for additional information regarding whether or not the existing tower is suitable for meeting their communication needs. Second, the proposed 175-foot high tower does not minimize the height of the facility. Verizon Wireless has indicated that the height required for their antennas is 140 feet; however, the tower is proposed to be constructed at a height of 175 feet. Third, the proposed tower is not located in a wooded area where trees would obscure a portion of the facility from view from adjacent single-family residences; other sites within the applicant's search area better meet the Location and Design Guidelines of the Wireless Communication Master Plan. Finally, the proposed 175-high facility does not conform to the compatibility height standard since it is proposed to be setback only 165 feet from property zoned "RR" located both east and west of the site. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be DENIED; however, if the MAPC finds the request appropriate, planning staff recommends that the MAPC make appropriate findings and that approval be subject to the following conditions:

- J. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- K. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- L. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- M. The monopole shall not exceed 140 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.
- N. The monopole and its foundation shall be designed and constructed in such a manner that permits future height extensions of up to 25% of the structure height and future loading expansions to accommodate communication equipment for at least four wireless service providers.
- O. A landscape plan shall be submitted for approval by the Planning Director that provides, in addition to the proposed 6-foot high junipers, the equivalent of 4-inch caliper shade trees every 30 feet across the 330-foot width of the parent tract, with the trees planted and maintained in locations such that (at maturity) the shade trees will partially obscure the tower from view from adjacent single-family residences.
- P. Revised site plans and elevation drawings indicating the approved location and design of the wireless communication facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
- Q. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- R. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- S. Approval of the Conditional Use constitutes a waiver of the Compatibility Height Standard for the wireless communication facility.
- T. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- U. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of a rural, large-lot subdivision. All the properties surrounding the site are zoned "RR" Rural Residential and are developed with single-family residences on 5-10 acre lots. A 175-foot high tower is not consistent with the zoning, uses, and character of the neighborhood.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential, which is intended to accommodate very large-lot, single-family residential development in areas where a full range of municipal facilities and services are not available and not likely to be available in the near future. The site is currently developed with a single-family residence on a 10 acre lot and, thus, is suitably restricted.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Existing and proposed landscaping does not adequately obscure the view of the proposed tower, which would lead to a negative visual impact from the tower on nearby residential properties.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. First, the proposed facility does not utilize existing towers in the area. There is an existing tower located approximately 2.5 miles southwest of the center of the applicant's search area. The applicant indicates that a facility within 1.5 to 2 miles from the center of the search area will meet their communication needs. The applicant did not respond to a request for additional information regarding whether or not the existing tower is suitable to meeting their communication needs. Second, the proposed 175-foot high tower does not minimize the height of the facility. Verizon Wireless has indicated that the height required for their antennas is 140 feet; however, the tower is proposed to be constructed at a height of 175 feet. Third, the proposed tower is not located in a wooded area where trees would obscure a portion of the facility from view from adjacent single-family residences; other sites within the applicant's search area better meet the Location and Design Guidelines

of the Wireless Communication Master Plan. Finally, the proposed 175-high facility does not conform to the compatibility height standard since it is proposed to be setback only 165 feet from property zoned "RR" located both east and west of the site.

5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity.

**KNEBEL** "This is also a Conditional Use request for a communication tower. The site is located south of 69<sup>th</sup> Street North and west of 127<sup>th</sup> Street East. The proposed site is in the rear of a residential lot. We are showing a larger aerial than we normally do for a purpose, which I will get to in a minute.

The applicant is proposing a 175 foot tall monopole. The monopole is shown here on this slide. It is a little misleading—it does show an antenna at the top; however the application indicates that the initial user would be at this 140-foot point and no initial user, at least at the top level.

The site plan, in larger detail, shows the surroundings of the site. You should have one of these attached. This is a 10-acre residential subdivision with a house located here (indicating). They are proposing to put the tower in the back of the residential lot and have residences to the east and west and south of this particular site on either 10 or 5-acre lots. They propose to screen the lot with small Juniper trees. The need that they are trying to remedy is the lack of coverage here in this area along the K-254 highway as it goes east of Wichita toward El Dorado.

There are residences in close proximity to the south of this site. The tower would be located in this location here (indicating). There is residential to the southwest, the west and the northwest. The owner's property is to the north and there are other properties to the northeast and the east.

The Planning staff is recommending against this particular request primarily because we feel that it doesn't conform to the guidelines of the Wireless Plan. There is a discussion in the staff report about not receiving information regarding whether or not an existing tower could be used. We then later received that information, which we attached to the top of the staff report, and we are comfortable that the existing tower, which is located several miles to the southwest of the proposed location is too close to their existing facilities to provide the type of need that they would like to have addressed. However, we don't feel that this particular location, which is shown in pink here is the best location in their search ring, which is centered in the intersection of 69<sup>th</sup> Street and Greenwich.

The Wireless Master Plan indicates that sites should be selected such that the towers are located in wooded areas or in areas where trees would obscure a portion of the facility from view of adjacent single-family residences. We think in a mile radius of that point, this particular location is right in the middle of all of the residences that are located within a mile radius of that point. There are areas over here where you have wooded areas where there are fewer residences to obscure the view problem, and there are existing trees that would accomplish that, so we are recommending that this request be denied on the basis of the fact that we think this is a poor location, given the other opportunities in the area.

The staff report contains a number of recommendations if the Planning Commission would find that this request be appropriate. We have the standard conditions there regarding what we would be looking for as far as how to make the site less obtrusive.

I did want to go back and show this. This is a recently approved tower. One of the conditions we had—and this was relatively new—was that we were wanting to have trees planted on the site, far removed from the tower itself. This is on Hillside near 24<sup>th</sup> Street. As you can see, you kind of have to stand in the right place because this tree is rather young, just planted—but this tree was planted a couple of hundred feet to the north of this tower—this tower is 125 or 130 feet taller than that tree, but given the site angle, you can obscure the view of that tree and then as this tree shows in the back, which is matured, if you step over to the left you can see that as the tree matures, the area that is obscured in view increases. I just wanted to show that to you because I know that in the past we have had comments about whether or not a tree can hide a tower. They can, depending on where you stand. Obviously if you stand a quarter of a mile away from this tower you are going to be able to see it and this tree is not going to be able to do any good. But these houses, in this instance, were not that far away. Several hundred feet, and some of them 400 to 500 feet. With that, I will answer any questions you might have."

**MARNELL** "I just need to let you know that I had outside contact on this. I called the Engineer at the Airport Authority in regard to the last paragraph on Page 2 to see if he could enlighten me as to why he was concerned about that tower when it is over a mile off the flight path to Jabara, and he could not. That was it."

**BARFIELD** "In regards to the tower that is approximately 2-1/2 miles to the southwest, is that a monopole?"

**KNEBEL** "Yes, it is. It is about 2-1/2 miles southwest of the center of their search ring. It is over 3 miles from the actual tower itself."

**BARFIELD** "And would that be the tower that I believe we approved approximately 6 to 8 months ago?"

**KNEBEL** "That's correct. That is about the right time-frame."

**BARFIELD** "Then what has convinced you that that tower wouldn't be suitable?"

**KNEBEL** "It is the fact that it is so proximate to their existing facilities. If I could go back and show that. Each carrier has a separate network of facilities and Verizon, in this instance, has a tower here and here (indicating). That tower is located in about this location right here. According to what the applicant says, and I have heard this from other applicants, if you put the towers too close to one another, they actually degrade the system rather than approve it."

**BARFIELD** "Well, but when we approve these, I thought we approved these with the condition that they allow for co-locating, and that was the whole basis for it, not for putting the folks together. We have two or three in the area that aren't co-locating."

**KNEBEL** "Yes, and I don't agree with you that the tower is there and is available to be co-located upon, but I also agree with the applicant that that particular location is not going to address the reason that they have made this particular application. I agree with them that there is a need in this corridor out here along the highway, further out than Webb road for a tower to meet their needs. I just don't agree that it in the back yard of a residential subdivision is the appropriate place to put it."

**WARREN** "Like Commissioner Marnell, I want to disclose that I drove out to look at this site, and when I was in this gentleman's yard, it turns out that he is the owner, so I visited with him for a few minutes. He directed me to where this tower is going to be."

**GAROFALO** "Is there any explanation as to why Verizon wants to put a 175- foot tower up and they are only going to be at 140-foot?"

**KNEBEL** "I think the explanation is that the tower builder, American Tower is the one who is wanting to build the tower, and I suspect that they intend to lease that space to someone else. Verizon is the user, at least the initial user of the tower. I will let them address that if I misstated that."

**MICHAELIS** "Are there any further questions of staff? All right. May we hear from the applicant, please?"

**RON JONES** "I am with the American Tower Corporation. I will try to move through this—I know everybody would like to get away from here, and I recognize that there are some concerns both on the part of the American Tower Corporation, certainly Verizon, and the neighborhood."

The initial question that was asked is why are we going in at 140 feet? Actually, Verizon needed somewhere between 140 and 160 feet within a search ring. That was approximately 2-1/2 square miles. The elevation at which we finally found the site tells them that they can go through their computer and their RF engineering and decide at what point in between that 140 and 160 feet they actually have to go to provide the coverage as it was shown on the propagation map here a while ago.

American Tower is mostly in the US. All we do is build towers, own towers, maintain towers. We cover the insurance, we take care of the liability—we do the whole thing—we are actually a co-location company. So our purpose has no function other than trying to fill up those tower spaces. Before we even started on this site—in fact we are doing several for Verizon across a three state area, probably 70 or 80 that we are working on right now—but in each case, we make a decision early on whether we think, if we want to build a tower for Verizon, we have to make the decision corporately inside is this a tower that we can put other antenna space on? This is the only way that American Tower survives. So in essence, we do exactly what you have really set out to do in your tower plan. We are simply a co-location company, and our grid network, before we accept a Verizon tower site such as this, we take a look and see how it relates to other towers that we own in the area. If there is a tower even owned by a competitor that will work for Verizon, we would suggest that they would go on it. We have no interest in building a tower close to a competitor that has space on it.

In this particular case—and I think I need to speak to this—I think there was a little bit of a misstatement, it didn't come out quite right. The existing Lattice tower is actually a little over 5 miles southwest of this proposed tower, and it is a little over 2 miles to two other towers that are currently the inter-connecting towers for Verizon. I am going to pass this out, if you would pass them down, you can see the both the (unable to hear) and the Lattice tower.

To satisfy some of the questions and some of the concerns that we have had, and I think Scott referred to as to why this makes sense, if had used that Lattice tower, we would have ended up with another tower up close to this area eventually to fill in on Highway 254. It would not cover for us. It is as simple as that. The real problem here, probably more than anything else, and I am probably skipping over a whole bunch of things, so I will leave those for questions, but I think the real question and the real issue here is yes we are in an area that is beginning to develop residentially. Some of it is developed quite a little bit. We are almost entirely on 10-acre tracts 330 foot wide by 1,320 foot deep. The area to the south is configured as a lot specific, more like a subdivision, but still I think most of those are in 5 to 6 acre areas, some of them larger than that and a couple of them a little smaller. There are some lots to the east.

Within the search ring that would work for the RF technology for Verizon was about half a mile south of the road running east and west, 69<sup>th</sup> Street North. We only come about half a mile south to cover their topography, their geographic area for Verizon. We went a mile north. The problem I have that we are working with is that the sign acquisition people are subcontractors who went out to look for a site within this 2-1/2 mile area. The only person that came back and said they would be interested happens to be this particular property owner. We could take a look at the aerial and look at the properties to the north, but none of them were responding in coming back. In other words, in order to build out these



systems, we do have to have a receptive land owner and a receptive applicant. So that is one of the reasons that they ended up where they are.

The other is that no matter where we went, somewhere along the line we would be in conflict with some of the concepts coming out of your tower plan. The rationale is this: You allow a 2-acre development anyplace in the 'RR' zoning. Now, I have used the 'RR' zone as it is laid out in the Comprehensive Plan and within the ordinance itself as really kind of a holding zone that is there until the more urbanizing effects begin taking place. As a result, it is quite likely, in fact it is very likely, whether it is 5 years, 10 years, or 20 years, that wherever we put a tower in the 'RR' zoning, especially in this area, that we will find the breaking and splitting of the larger tracts into the 5, 2 and 10-acre tracts all around the tower site. So what we may be avoiding, at this particular moment, in that philosophy or that concept, is something that is going to take place at some future date, at any point and any time. In fact, the Lattice tower is just a little bit short of a subdivision of the same basic nature. I think it is about a 3 or 5 acre lot directly north of here just a few hundred feet.

The rate of development of the stuff on Rock Road suggests that that is going to be interlocked with probably residential and probably single-family development at some particular time. Now is that a negative? Well, all I can tell you is that across the country we have built tower after tower after tower to meet the demand for the wireless technology, the wireless industry, the demand for the wireless system, and we have found single-family residential developing up around those. In fact, I have some photos here I will show you here in a little bit on one of the boards. You are welcome to see them. That has not impacted, it has not stopped them from developing. We have some monopole-type of towers of within 150 feet of single-family residential houses going up in the \$300,000 plus category.

My point being that the question becomes, from a planning and a philosophical standpoint—and I have been in the planning business for 45 years, and have sat on both sides of the table—in order to develop the network to serve the public, there are going to be times when we need to set a tower in a location that is subject to concern perceptions. I wouldn't even begin to question that that is going to happen. We have done it because we have had to do it.

I am not going to get into a lot more detailed information at this point. I think in fairness to the people here that need to speak and want to speak, I will step back and I am ready for questions to which I will respond to however is necessary."

**MICHAELIS** "Are there any questions of the applicant?"

**BARFIELD** "Sir, you continually refer to a Lattice tower. I was talking to staff, asking about the tower that is 2-1/2 miles to the southwest as being a monopole tower. Are you talking about the same tower?"

**JONES** "I'm sorry. It is Lattice Communication's tower. Horizon and Lattice Communications are one in the same. Actually it is 5.28 miles southwest of this location."

**BARFIELD** "Okay. Also, you identify yourself as strictly a co-location company, but the way I understand the rest of your conversation, you are more of a leasing company."

**JONES** "We lease space on our towers."

**BARFIELD** "On your towers. But you don't collate on other's towers?"

**JONES** "We will recommend that. For instance, if that Horizon/Lattice tower would have been within say, 2-1/2 miles, we would have said 'we are not interested in building this tower. Verizon, you need to go talk to the Lattice people'. In fact, I have been in conversation with the Lattice/Horizon people in Cincinnati over the last 2 or 3 weeks."

**BARFIELD** "I have one more question for staff. Scott, how do you get at the difference here between 2-1/2 miles and 5-1/2 miles?"

**KNEBEL** "I really don't know where the 5 miles is coming from. As you know, our grid system is 1-mile section-line roads. The map that he showed, and it is attached in your blue memo, it is not in color but in black and white, is approximately half a mile east of 111<sup>th</sup> Street. You then go one mile, so you are 1-1/2 miles, and then you go another mile and you are at 2-1/2 miles to get to Webb Road. This other tower is a quarter of a mile west of Webb Road. I am not sure how that calculates into 5.28 miles. In fact, there is a circle around it that says 'three mile radius'.

**JONES** "I'm sorry. I think it is 3.28. I said 5.28. I made a mistake on that."

**MICHAELIS** "Are there any further questions of the applicant?"

**GAROFALO** "Exactly how many feet will this tower be from a residence?"

**JONES** "Okay, I think the closest residence is—there is a house over here (indicating). I think it is 550 feet. There is one that is a little over 800 feet, this one is 760 feet, this one is at 880 feet, and this one is 1,250."

**BARFIELD** "I have one more question. Sir, real quickly, can you tell me how far this proposed location would be from the proposed development in that area?"

**JONES** "From the proposed development?"

**BARFIELD** "Yes, from the proposed residential development that you spoke of."

**JONES** "Maybe I am not following you. (Indicating) This is the development that is here. That is all that is here. There is nothing proposed other than what already exists."

**BARFIELD** "Okay, thank you."

**MICHAELIS** "Okay, is there anyone in the audience wishing to speak in favor of this application? Is there anybody to speak in opposition?"

**KATHLEEN SCHNEIDER** "My husband and I live at 12215 East 69<sup>th</sup> Street North. We are in opposition to this case because we live next door to the east of the property that Verizon wants to construct a 175-foot monopole communication tower on with a 100 x 100-foot ground equipment around it on property that is zoned Rural Residential. Rural Residential means that and does not mean commercial use made of such properties.

A recent Wall Street Journal article reported houses in view of the tower sell for 13% to 30% less than comparable houses. This is not what anyone wants, I am sure. We have visited and observed several other tower sites and find them very objectionable just to look at. The multitude of cables and boxes that house the equipment are a sorry site. Not what we want to look at from our property. Irregardless that they may be housed. Conceivable landscaping and screening provide no appreciable effect. At least four surrounding homes that are directly adjacent to the said property would be viewing this commercial venture.

Scientists have performed extensive research on the biological effects of cellular phone towers. Some of the adverse effects are reproductive dysfunction, decrease in memory, the ability to learn and the desire to eat and drink. Low intensity radiation can cause significant DNA damage and may have individuals susceptible to Parkinson's and Hodgkin's disease. Therefore, we believe that the Wichita-Sedgwick County Metropolitan Area Planning Commission should error on the side of caution in this case.

When we purchased our property, we were given a copy of restrictive covenants that covered the north half of Section 10, Township 26, Sedgwick County. The property in question is located in this area. Wording included 'to protect the owners against such improper use of surrounding sites that would depreciate the value of their property'. As I previously mentioned, there is the article of the decreased sale value of homes in the view of towers. It also said 'to preserve the beauty of such property, and to guard against the erection of inappropriate structures'. This tower erection and ground equipment is in direct violation of those premises.

Restrictive Covenant No. 1 says that no structure shall be erected on said real estate such as a house, a barn, a tower, other than for private use. This proposed tower is of commercial nature, not private use. Restrictive Covenant No. 4 says 'that no activity which may be or become any annoyance or nuisance to the neighborhood shall be carried on upon said real estate'. This tower is an annoyance and a nuisance to the neighborhood. Ongoing maintenance, further enhancements and additions and follow-up work means construction, electrical and communications companies working in the area.

Also, Restrictive Covenant No. 4 says 'no retail, wholesale, manufacturing or repair business of any kind shall be permitted on said real estate'. I believe Verizon is a business, is it not? Finally, we believe that this is a totally inappropriate place for such a venture. It should be of no consequence to re-locate this tower to a more suitable, acceptable, wooded location. Thank you very much for your attention."

**HENTZEN** "About your remark about 13% to 30% decrease in value of the property. Could you identify that source? Where did it come from?"

**SCHNEIDER** "It was a recent Wall Street Journal article and I don't know where they got their information?"

**KROUT** "Do you have a date for that? We could do some research."

**SCHNEIDER** "I'm sorry, I don't."

**WARREN** "Now, you live the first property east, I understand, and you face out to 69<sup>th</sup> Street?"

**SCHNEIDER** "Our drive-way comes in from 69<sup>th</sup>; however, our house faces south and we do look out to the south at the beauty of the land."

**WARREN** "Okay. Now, on the back of your property, being the south end of your property, do you not have an easement there with some big Lattice towers that belong to KG&E?"

**SCHNEIDER** "Yes, sir."

**WARREN** "So you now have some Lattice towers out there, quite extensive towers."

**SCHNEIDER** "Yes, sir."

**MICHAELIS** "Are there any further questions of the speaker? All, right, next speaker, please."

**KROUT** "While we are waiting for the next speaker, I would like to make a couple of points for the record. No. 1, on possible radiation effects of towers—for the new commissioners—that really should not be a consideration for the Planning Commission or the County Commission on this case. The FCC has basically pre-empted local regulations when it comes to that. They have decided what they think are safe emissions and it may or may not be true, but it is not a reason that the local government can use to turn down a case. You should be considering other issues.

Also, private covenants by themselves are not something that you need to be considering. Just the public regulations and what that means. The fact that the private covenants may be having an effect on the character of this area by restricting the uses I guess you could consider as testimony, but the fact that there are private covenants is not something that directly you should be considering either."

**MICHAELIS** "All right. Proceed, sir."

**BRYAN JACKSON** "I live at 11915 East 69<sup>th</sup> Street North, two doors to the west of this proposed tower. I wish the site was up there, but my back door where I go out onto my deck off of my bedroom to watch the sun come up is going to look right at this tower. I am actually maybe closer or at least as close to the tower as the person who wants to put it in—the landowner two doors down.

Also, the applicant had said something about an area that is beginning to develop. I am not going to quote the covenants because they have already been quoted, but the date on this covenant is September 19, 1968. What just aggravates the heck out of me is that I know we need cell phones, and we need towers, but in a two mile radius around Greenwich Road and K254 Highway, they picked the most populated area. Nobody came and talked to me to ask me if I wanted a cell phone tower. I would think if you were looking for an area you would go and make a comprehensive search. Do your homework. I doubt if they know that there private covenants. This will end up in court, but that is not your concern, other than the fact that we have tried to keep a quality of life in our area there.

On another note, some of the towers they have talked about—I know there is one over on Rock Road and north of 53<sup>rd</sup> Street, and I know whose land it sits on—I know he has another 160 acres that is within a two mile radius. When we found out about this, we went around and got some of the neighbors together and we knew what it would come to. We have dealt with this with other issues out in our area.

I have a map here of the proposed area. (Indicating) This is where the tower is going to be. In the 1,000 foot radius, I have taken all but 1,2,3,4, and 5. No. 5 being the City of Wichita. In other words, we have 11 out of 16 protest petitions signed and ready to file right now. That is what the opposition is to this tower in this area. There are many wooded areas. I could probably go point out ten areas within that 2 miles where it is wooded, open country, no houses. The tower companies need to get together and figure it out. We were here first—we have been there for a long time. Not I personally, but my house has been there and my neighbors have been there. They are not trying to work around us at all. I am going to have the tower just as close to my house as it is to his, and he gets paid for it. It sounds to me like they finally found the first person who said 'yeah, I'll do it for that amount of money', and they said 'okay, we'll put it there'.

One other thing. There are some petroleum pipeline easements on the front of the property. I think it comes about 120 feet off of the front of the property, off of 69<sup>th</sup> Street. Occasionally, the aircraft fly those pipelines and check them, which will require lights on that tower, I'm sure. And if a plane makes a mistake coming from the east and clips that tower, he is going to go right into my house. My house is the one that is just almost due west of where that tower is going. I looked at my survey and the north part of my house is 559 feet from the road. The back part is going to be in the neighborhood of 600 feet from the road, and the tower is about 800 feet from the road. One thing we do appreciate out in the country—and I've never lived in the city before—is the stars at night. I don't want any lights flashing."

**MICHAELIS** "Are there any questions of the speaker? All right, thank you, sir. Next speaker."

**AL SCHNEIDER** "I live just to the east of the Fredericks at 12215 East 69<sup>th</sup> Street North. The question I have is that I picked up a statement from Mr. Jones that he had contacted virtually most of the people in the area. I would like to know who those people were. Could you give me a list of those names? I would like to know who he has requested the permission of."

**MICHAELIS** (To Krout) "Is that something that he would be required to give?"

**KROUT** "The applicant wouldn't be required to give it, but when he does his rebuttal or after it, I think you could ask him that question."

**SCHNEIDER** "Maybe we can help him out. We're not against cell phones. Everybody has a cell phone nowadays it seems. I wasn't prepared to speak, except I did jot down some notes. One hundred feet by 100 feet is quite a large area. We don't imagine the tower is going to stay down at 140 feet with their messaging units. We expect it will grow and expand probably to Southwestern Bell, AT&T and who knows what its growth will go to. I think my wife had some of those comments.

Brian has covered the safety issue. We know that they not only will hit his house going in one direction, but it is quite possible that they are going to crash on our property or hit our house if he is coming the other way. He flies very low. We frequently see him right at about the heading where that tower would be."

**MICHAELIS** "Are there any questions of the speaker?"

**BARFIELD** "Well, I just think the answer to is question—the speaker before him stated that he had signed petitions from 5 or 6 of the 11 of the property owners in that area. I think that in itself would speak to who he had or had not talked to."

**SCHNEIDER** "I'm sorry, I didn't understand that."

**BARFIELD** "The gentleman before you, I believe said he had petitions signed and had talked to several of the people. I think that would pretty much answer your question as to who he had talked to and had not talked to."

**SCHNEIDER** "That was in opposition to it."

**JOHNSON** "If you were approached to have it on your property, would you be more favorable of it?"

**SCHNEIDER** "Absolutely not. I told my neighbor that, too. Not that I couldn't use the money or other people couldn't. I am retired, not voluntarily and I receive no pension, and I would still deny that."

**JOHNSON** "Okay."

**MICHAELIS** "Are there any further questions of this speaker? Did you have anything else?"

**SCHNEIDER** "One other point. I went into it in some detail, Mr. Krout, and while it is conflicting, this health/medical issue, just like any of these major issues, there were studies done, maybe you are aware, in Germany and England, and to me it is irrefutable. Maybe they don't have to consider this, but to me, it is very reliable stuff."

**MICHAELIS** "Sir, the point Mr. Krout was making was that we have been advised by legal counsel that we cannot use that as a basis for denial or approval. Not disputing the fact that there have been studies done."

**SCHNEIDER** "I understand. Interestingly enough, we came across another one, I think in England, where they had milking cows grazing in the area of these towers. Don't consider this, that's okay, but I find the scientific aspect interesting. The cows stopped milking while they were in that direct area. They took them and put them some distance away and they started milking again. They brought them back and they stopped milking. I think there are a lot about these things that we don't know. I think we do have to consider them, but I understand your position. Thank you."

**MICHAELIS** "Thank you. Next speaker. Is there anyone else wishing to speak on this item. Okay, sir, you have two minutes of rebuttal time."

**JONES** "I, too, would be interested in the Wall Street Journal article because the facts of the matter and in the application itself, there is a section in the back that talks about No. 1, if there is a study done under the real estate research procedure in comparable situations, they have found no sign of loss of home value. Now if there is a study that has been done—and I have seen these all the way across the country—and there is a response to some of that, and it is documented. I can provide those documents. So from a value standpoint, I know it is a great perception, the only time I have ever seen a loss in value is where people themselves have immediately put their property on the market, and I have seen this happen, and do it at loss, trying to get rid of it in 60 or 90 days. It is kind of an emergency reaction and an emergency response. But I would look forward to seeing the Wall Street journal article.

No. 2, towers are permitted in the Rural Residential zoning. The Comprehensive Plan and certainly the Zoning Ordinance anticipates that. It provides for it, it understands the need for it. This is an extension of a hard-line, borrow-line to wireless utility for the general public good. From a business standpoint, the requirement to build this thing out has been the FCC auction of wireless frequency to these people and they have to fill out their system. At some date and time, they have to provide service to 80% of the population in this county.

What I am saying from the development happening, going north on Rock Road, going northeast in any of this..."

**MICHAELIS** "Sir, your time is up."

**JONES** "Could you give me another minute or so?"

**MOTION:** That the speaker's time be extended for 1 minute.

**HENTZEN** moved, **MCKAY** seconded the motion, and it carried unanimously.

**JONES** "Basically, the whole area is going to grow. It is going to develop, it is not going to stay Rural Residential. It is not going to stay rural. It is going to become urbanized over some period of time. I don't know how that is going to take place, but I can guarantee you that the 2,5 and 10 acres—I have driven this area over a number of years to know that that is what is happening.

On the pipeline easement thing, I have talked to a couple of pipeline people that fly these things, and their major concern is if we are within 500 feet of the line or less, and they would like for it to be a little further than that, but the other is if it is 250 feet if it has guys. That is a concern. They didn't respond to me that they needed to have it lit. This is not a lit tower. At 175 feet and as far south as we are, I would be surprised if we had the people that fly. I have talked to some of the flying people themselves."

**MICHAELIS** "Okay, I will bring it back to the Commission."

**BARFIELD** "Marvin, I want to ask you if you can recall the last one of these that we had, which was up on North Broadway has been sent back to the Planning Department for some more study. Can you recall how far that was from that residence?"

**KROUT** "About 250 feet to the west."

**BARFIELD** "That appears to me to be about similar to what we have here. If we can believe what the one gentleman said was his proximity to this. I think that based on what I been able to ascertain that the County Commission is basically saying that they find that unacceptable. Like I said, that is back before your department now. So based on that information and based on the staff recommendation, I am going to make a motion."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The character of the surrounding area is that of a rural, large-lot subdivision. All the properties surrounding the site are zoned "RR" Rural Residential and are developed with single-family residences on 5-10 acre lots. A 175-foot high tower is not consistent with the zoning, uses, and character of the neighborhood. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential, which is intended to accommodate very large-lot, single-family residential development in areas where a full range of municipal facilities and services are not available and not likely to be available in the near future. The site is currently developed with a single-family residence on a 10 acre lot and, thus, is suitably restricted. Extent to which removal of the restrictions will detrimentally affect nearby property: Existing and proposed landscaping does not adequately obscure the view of the proposed tower, which would lead to a negative visual impact from the tower on nearby residential properties. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. First, the proposed facility does not utilize existing towers in the area. There is an existing tower located approximately 2.5 miles southwest of the center of the applicant's search area. The applicant indicates that a facility within 1.5 to 2 miles from the center of the search area will meet their communication needs. The applicant did not respond to a request for additional information regarding whether or not the existing tower is suitable to meeting their communication needs. Second, the proposed 175-foot high tower does not minimize the height of the facility. Verizon Wireless has indicated that the height required for their antennas is 140 feet; however, the tower is proposed to be constructed at a height of 175 feet. Third, the proposed tower is not located in a wooded area where trees would obscure a portion of the facility from view from adjacent single-family residences; other sites within the applicant's search area better meet the Location and Design Guidelines of the Wireless Communication Master Plan. Finally, the proposed 175-high facility does not conform to the compatibility height standard since it is proposed to be setback only 165 feet from property zoned "RR" located both east and west of the site. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity.) I move that we recommend to the governing body that the request be denied.

**BARFIELD** moved, **ANDERSON** seconded the motion.

**WARREN** "As I often do, when the staff recommends denial, I go out and look at the case, as I did in this case. We found that these are long, narrow lots, 330 foot wide, 1,300 foot long for the most part, and they have buildings strung out down along. This area has been overly blessed with KG&E transmission power lines. They are strung throughout.

What I looked at is that this tower is going to be a little bit insignificant compared to all of the transmission lines that are out in that area. There are a bunch of them out in there, too. I am going to have a little problem with the motion."

**MARNELL** "Marvin, would you enlighten us on Mr. Barfield's comment about the County Commission. I don't believe that is quite what they did."

**KROUT** "The County deferred the case for two weeks. What they have done is to ask for the Planning Department to go ahead and work with the third party engineer to specifically investigate the issue that was presented at the meeting about interference preventing a relocation on the owner's same property if they are going to be to the north.

I would not say that if we come back and the answer is that it can't move, I wouldn't say that the County Commission was going to deny that case. Who knows, but they seemed to understand that there was a need for a tower and that was justified, but they just wanted to make sure that all of the options had been carefully reviewed before approving one that seemed to be in the worse possible location. I guess I do see this as a similar situation here in terms of looking at the options."

**MARNELL** "I agree that trying to predict votes is rather difficult with any body."

**JOHNSON** "But on that same case, didn't we defer it for a period of time to look at the same situation?"

**KROUT** "We asked the company to look at the options. They came back and said there were a number of reasons why they didn't think that it could be done. I guess that we are suggesting, in this case, that we get a third party to look at it before we close that discussion."

**MICHAELIS** "Is there any further discussion? Let's vote."

**VOTE ON THE MOTION:** The motion ended in a moot vote with 5 votes in favor (Barfield, Michaelis, Coulter, Anderson and Garofalo) and 5 votes in opposition (McKay, Johnson, Warren, Marnell and Hentzen).

**KROUT** "It is a moot case. If there is no other motion, it will be a lack of a motion to approve, it will be a denial."

**MICHAELIS** "That is a denial then, a 5-5 vote."

**KROUT** "Because it is not a recommendation to approve, it won't go to the County Commission unless the applicant appeals this disapproval. He will have to appeal it to the County Commission. If you approved it, those protest petitions would have taken it to the County Commission anyway. But as it stands now, unless there is another motion on the table that works, he will have to appeal the Planning Commission's actions to get in front of the County Commission next month."

**MICHAELIS** "Okay. Nothing else? That takes care of that."

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**15. Other Matters**

**MICHAELIS** "One other matter. The Chair would like to offer a public apology to Mr. Warren for cutting him off a little earlier, because I think he did have a comment he wanted to make that was probably relevant. I would like to offer him this time to go back and make that comment."

**WARREN** "No apology necessary. Hell, I forgot what the comment was."

**MICHAELIS** "Is there any other business? Then I would take a motion to adjourn."

**MOTION:** That the Metropolitan Area Planning Commission adjourn.

**MARNELL** moved, **COULTER** seconded the motion, and it carried unanimously.

The meeting adjourned at 6:00 p.m.  
  
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State of Kansas     )  
Sedgwick County    ) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

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Marvin S. Krout, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)